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The Commonwealth of Massachusetts

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ANNUAL REPORT

OF THE

COMMISSIONER OF INSURANCE

FOR THE

YEAR ENDING DECEMBER 31, 1946

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PART I

FIRE AND MARINE INSURANCE

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DEPARTMENT OF BANKING AND INSURANCE





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# The Commonwealth of Massachusetts

DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE  
BOSTON, DECEMBER 31, 1946

## *To the General Court of Massachusetts:*

Part I of the Ninety-second Annual Report on insurance is herewith submitted by the Commissioner of Insurance as required by law. This Part of the Report relates to fire and marine insurance companies and includes the entire Report of the Division of Fire Prevention of the Department of Public Safety, submitted to the Commissioner of Insurance in accordance with Section 7, of Chapter 148 of the General Laws:

In this part of the Report, I shall inform your Honorable Body of the developments during the first two years following the decision of the United States Supreme Court in the South-Eastern Underwriters' case, which decided that insurance is interstate commerce and hence, subject to regulation by the Congress under the Commerce Clause of the Constitution.

Your Commissioner is indebted to a Special Committee of the Insurance Section of the American Bar Association for the research and assembling of the facts which form a substantial part of my report on insurance as interstate commerce.

### *Insurance as Interstate Commerce*

I have previously reported to the Legislature that following the decision in the South-Eastern Underwriters' case, decided June 5, 1944, (United States v. South-Eastern Underwriters' Association, et al, 322 U. S. 533, 88 L. Ed. 1440), confusion and hysteria was predominant among many people engaged in the insurance industry. Predictions of chaos and dire consequences flowing from the decision were heard everywhere. The Commissioners of Insurance, who constituted the Committee on Federal Legislation, together with a group of executives and lawyers for insurance companies, calmly approached the problem in the belief that calamity was not inevitable. Their deliberations laid the foundation for the accomplishments of the past two years.

The Assistant Attorney General of the United States, Wendell Berge, who had much to do with the South-Eastern Underwriters' case, speaking at Poland Spring, Maine, on June 28, 1946, said,

### "INSURANCE IN A FREE ENTERPRISE SYSTEM

In the American system of free enterprise as it is supposed to operate, the individual business enterprise seeks profits in open competition with others and at the risk of incurring losses. In such a system business profits over and above mere interest on invested capital are a reward for risk. Private initiative is allowed a wide latitude for venture with new ideas, new processes and new products. The right to venture implies the risk of loss as well as the opportunity to succeed. This chance-taking is at the root of a free enterprise system. Risk and uncertainty are the price we pay for the right to exercise our talents freely. To eliminate individual risk as a basic factor in economic life would mean to substitute a controlled economy for the freedom we have traditionally wanted.

There are businessmen who, although professing belief in a free enterprise system, actually do not want one. These men want to eliminate risk from the market by private restrictive agreements which guarantee them against the discomforts of competition. They want to fix prices at non-competitive levels. They want to create artificial scarcities through restrictions on production. They want to divide markets with their competitors in order to create private monopoly domains in which competition will be non-existent. They want to suppress new products and processes which will render obsolete and supersede the old.



Basically these attempts to eliminate competition from the production and distribution of goods are attempts by collective action to build a protective wall around the *status quo*. They are attempts to gain an artificial security against the potential threat of more efficient competitors. They are attempts to screen out risk by the substitution of monopoly control.

Another method of seeking the same result is to have government impose and enforce a non-competitive, monopolistic organization of industry. Thus, in some quarters it is argued that there are industries which should be subject to permanent government regulation as to production and marketing quotas, sales, the adoption of new technologies, and like matters. In support of such view it is suggested that competition no longer works as a regulator of the market; that overproduction and a flood of cheap goods threatens industrial destruction unless something is done; that the solution is overall government regulation, with production, distribution and prices stabilized at levels determined by government authority to be in the public interest. The notion seems to be that risk should be eliminated by the establishment of widespread regimentation of industry. Such arguments do not come from crackpots and long-haired theorists alone. I have heard them from respectable businessmen who seem to despair of making the private enterprise system work in the complicated modern world.

To my way of thinking, those who want to substitute regimentation for enterprise and risk are all wrong, irrespective of whether they would accomplish their end by private agreements to restrain trade and monopolize or by government controls. Both roads lead to fascism. Private monopoly in time creates the necessity for a greater measure of government regulation. And effective government regulation of production, distribution and price would call for a plenitude of government power not consistent with democratic political institutions. Whether you seek protection from the risks of competition by private or government regimentation you will probably wind up with a full measure of the latter, or at least a blending of the two.

I think we shall be better off with a maximum of healthy competition in this country. I mean competition that is fair and honest but which is not afraid to venture with new ideas for serving the people's needs and which is willing to risk volume production at lower prices.

Now I have referred to the willingness to assume risk as fundamental in a free enterprise economy. Does that mean that all risks of all kinds must be endured without any attempt at mitigation? Not at all. There are many kinds of risk against which individuals, corporations and society itself can and should provide protection and where protection is in no sense incompatible with free enterprise. Protection against the risks of death, accident, sickness, fire, storm, shipwreck and other acts of God not only is consistent with economic freedom but actually promotes it.

By being able through insurance to eliminate these and other fortuitous risks, men can concentrate their energies and capital upon the creative work of the world. To illustrate it simply, if a small businessman can make provision for his family through life insurance, he is then enabled to risk his small savings in expanding his business. Without insurance he would probably feel compelled to invest his small savings at the going rate of interest in something having a minimum of risk, or to hoard them. Again, if it were not for fire insurance many businesses, the victims of fire loss, would be ruined financially and thus would be unable to make their individual contributions to an expanding economy.

Both in origin and in operation the principle of insurance is both compatible with and promotive of the objectives of a free enterprise economy. But in our proper zeal to lessen the impact of those risks of life against which insurance can be written, we must not lose sight of the fact that our

free enterprise system requires a constant willingness to accept competitive business risks if we are to have an expanding economy. Otherwise our economy would become static because of our unwillingness to venture. Insurance might properly be viewed as an approved mechanism for minimizing the *fortuitous* risks of life so that man's energies will be more free to assume other risks in adventurous grappling with those problems which he has a chance to solve. If we did not have insurance we probably would not be able to maintain a private competitive system. Individuals would hardly be able under modern conditions to risk their capital on new business ventures if they were not able to pool with others through insurance their risks of accident and disaster. Consequently, it should be emphasized that insurance is a system of calculated risk, and as such it is a constructive corollary to enterprise. Insurance is not designed to displace enterprise, but to assist it.

The Sherman Antitrust Act is a legislative expression of the philosophy of free enterprise. It provides that no artificial restraints shall be imposed upon the market. It involves no plan of government regulation or control of business. Indeed, its purpose is quite the opposite, since it contemplates a minimum of government regulation. Under the antitrust laws, businessmen are free to make individual decisions regarding the conduct of their own businesses. Freedom of enterprise is protected against those who would hamper the operation of the market and prevent free access to the market.

An antitrust suit is not an attack on business or a contest between government and business. It is rather a dramatization of the conflict between those businessmen who wish to operate in a free market and those who desire a privately controlled market.

Two years have passed since the Supreme Court handed down its decision in the *South-Eastern Underwriters Association* case and caused the insurance industry to engage in some intensive soul-searching. Although characterized by some as 'precedent smashing,' the decision was the inevitable result of the growth and development of the insurance business. Keeping pace with the organized commerce of our time, the insurance industry has lost most of its local aspect and has become more and more a national concern. As the Supreme Court pointed out:

Perhaps no modern commercial enterprise directly affects so many people in all walks of life as does the insurance business. Insurance touches the home, the family, and the occupation or business of almost every person in the United States.

This business is not separated into 48 distinct territorial compartments which function in isolation from each other. Inter-relationship, interdependence, and integration of activities in all States in which they operate are practical aspects of the insurance companies' methods of doing business.

And, I remind you, the insurance companies themselves had for years vigorously maintained that they were in interstate commerce. This contention was often made in contesting the validity of state regulatory or taxing laws.

In *Paul v. Virginia*, decided by the Supreme Court in 1869, it was held that a Virginia statute which regulated foreign insurance companies did not offend the Commerce Clause of the Constitution because 'issuing a policy of insurance is not a transaction of commerce.' In subsequent cases this statement was repeated and broadened. But until the *South-Eastern Underwriters Association* case, the Court never had before it any case involving application of a federal statute to the business of insurance. In that case we took the position, which the Court adopted, that *Paul v. Virginia* was not authority for the proposition that insurance was not subject to federal regu-

lation under the commerce clause of the Constitution, and that the Sherman Act by its terms was all-inclusive and applied to all business that was commerce within the meaning of the commerce clause.

No purpose would be served in attempting now to restate the legal arguments. It is now settled that the business of insurance conducted across state lines is interstate commerce.

But even before the *South-Eastern Underwriters Association* case was decided, a movement had been initiated to obtain for insurance legislative exemption from the Sherman Act. A smoke-screen of misrepresentation about the motives of the Department of Justice was cast about the basic issues. Bitter controversy raged in the press concerning the implications of declaring insurance to be interstate commerce. False prophets darkly predicted that the holding would mean chaos in the industry, that it was a step toward socialization, that it would overturn state regulation and taxation of the insurance business, and that the American agency system was doomed.

Finally, Congress passed Public Law 15—the McCarran Act—granting a period of moratorium from the application of the antitrust laws and affirming the principle of state regulation. Now in a calmer atmosphere brought about by the passage of time, it may be well to comment on the record and to venture some remarks regarding the future.

I think it has become abundantly clear by now that the action of the Department in proceeding against restrictive practices in the insurance business was not motivated by any desire to bring about federal regulation, or to socialize the industry. Our position with respect to federal regulation has been consistently stated from the outset. We have no program for federal regulation. Furthermore, I can state that I have not seen or heard of any program for federal regulation suggested by any other government agency. The allegations regarding a move to socialize the industry or to manipulate its financial reserves were the worst sort of misrepresentations. They were distortions of fact—an effort to confuse the issues.

The 'chaos' that was predicted has failed to materialize. If you suggest that the chaos predicted was the overturning of developed and accepted system of state regulation, and that Public Law 15 averted the disaster, I answer by referring you to the case of *Robertson v. The People of the State of California*, just decided by the Supreme Court on June 3. Mr. Justice Rutledge, speaking for a unanimous court, sustained the principle of state regulation of insurance under the police power of the states without relying upon the McCarran Act. You will recall that we took this very position in our arguments in the *South-Eastern Underwriters Association* case. We there asserted that the application of the Sherman Act in no way interfered with the application of reasonable state regulation.

Parenthetically, it is interesting to note the similarity between the *Robertson* case and the historic case of *Paul v. Virginia*. The facts present a startling parallel. Both cases were attacks by insurance companies on state regulatory laws upon the ground that the state laws were regulations of interstate commerce forbidden by the commerce clause of the federal Constitution. The result in both cases was the same—the state laws were upheld—although the rationale of the cases differed in some respects. So it is clear that the *South-Eastern Underwriters Association* case holding the insurance business to be in interstate commerce has not had the effect of invalidating reasonable and non-discriminatory state regulation.

One field in which the McCarran Act has had a more direct effect is in regard to state taxation of the business of insurance. While the *South-Eastern Underwriters Association* case was not concerned with state taxa-



tion, the decision that insurance was commerce had the effect of raising questions about the propriety of various types of taxation upon the business of out-of-state insurance companies. These, too, have just been answered by the Supreme Court in *Prudential Insurance Co. v. Benjamin*, decided on the same day as the *Robertson* case. The *Prudential* case makes it clear that the McCarran Act will serve as a general protection to state taxing systems. There is, however, language in the opinion indicating that the same result might have been reached in the absence of the McCarran Act.

The most significant phase of the inter-action of the *South-Eastern Underwriters Association* decision and the McCarran Act, however, is the fact that the enactment of this statute terminated a bitter struggle by some elements of the business to remove insurance wholly from the rules of the free enterprise system. Instead of attaining this result, Congress granted an opportunity to the business and to the states to demonstrate how free enterprise in the insurance business can be preserved subject to state controls designed to protect the public interest. The act was not an invitation to continue a system of private regimentation under a cloak of state protection. Nor was it a declaration that the states could establish islands of immunity from the antitrust laws for the furtherance of private group interests.

What the McCarran Act does is to declare a moratorium on the application of the antitrust laws to the business of insurance until January 1, 1948.

But Section 2 (b) of the Act provides:

No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Thus Congress declared that no act of Congress shall be construed to invalidate state regulatory or tax laws unless it expressly relates to insurance, and that after January 1, 1948, the antitrust laws shall apply to the business of insurance to the extent that such business is not regulated by State law.

A narrow legalistic approach to the interpretation of the McCarran Act will defeat its own ends. Insurance companies are not thereby to be permitted to make contracts and agreements in restraint of trade, to monopolize or attempt to monopolize interstate commerce, or otherwise to engage in restrictive practices.

The states have the opportunity to re-examine and re-constitute their regulatory laws for the orderly correction of abuses which have existed in the insurance business. Fairness, efficiency and the preservation of competitive opportunity should be the criteria. If the attempt fails, the answer must lie with Congress and the Courts.

The most discussed issue at the moment is the regulation of rates and rate-making. It is argued that cooperative rate-making, illegal under the Sherman Act, is necessary. Three reasons prominently advanced for this conclusion are:

First: It is necessary to use the combined past experience of all companies to determine future loss probabilities.

Second: Competition in rates results in discrimination among purchasers of insurance.

Third: Competition in rates will imperil the financial stability of the industry.

The need for combining the experience of all companies for rate-making purposes is reasonably clear. But other factors enter a rate in addition to what might be termed "pure cost" based on past experience. Administrative expense, acquisition cost and profit are also included in any final rate. Under a system of agreed rates, rates must be weighted in favor of the least efficient operator. Although each company should perhaps use the same factors and tables, it does not necessarily follow that all should use the same final rate—which includes other costs.. The latter are not uniform for all companies. The need to make use of common experience, or even to use a basic rate floor derived from such experience, does not necessitate depriving the public of the benefits of competition. I am sure that a plan for permitting the fullest use of common experience while preserving competition could be worked out within the framework of the Sherman Act.

Discrimination among purchasers of insurance similarly situated is undoubtedly unfair and uneconomic. But most of the states have long prohibited such discrimination. The Sherman Act does not prevent each company from charging its own patrons uniform prices. Indeed, the Clayton Act as amended by the Robinson-Patman Act actually forbids price discrimination among customers in interstate commerce. So state laws enjoining discrimination are entirely consistent with the federal laws. But the elimination of discrimination among customers does not require agreement between insurance companies upon final rates.

The argument that competition in rates would injure the financial stability of the industry overlooks the vast body of existing state regulation designed to guard against insolvency. There are regulations regarding minimum capital, adequate reserves, deposit of security funds, reinsurance, types of security investment, and periodic examination by state authority. All of these are entirely consistent with the Sherman Act, and could be further implemented if deemed necessary.

The extent to which the states shall 'regulate' rate-making practices in the business of insurance is one for their own determination. By 'regulating' they will prevent the application of the antitrust laws at the close of the moratorium period. The Department has never urged the states to pass any laws or exercise any control over insurance rates and it does not do so now. But, where the states do act, it is incumbent upon them to regulate affirmatively in such a manner as to protect the public interest. I construe the word 'regulated' in the McCarran Act as requiring state laws designed to prevent abuses or combinations among private groups which penalize competition, promote the concentration of economic power, or otherwise restrain trade and commerce in insurance. The widest possible area of competition should be preserved. Where combined activity is authorized, adequate safeguards must be provided to guarantee that the grant is not misused to the public detriment.

I am pleased to note that the reports coming to me demonstrate that yeoman efforts are being exerted by all branches of the industry, and by the insurance commissioners of the several states, to eliminate restrictions and abuses and to formulate proper legislation. The major stock company organizations have abolished the so-called 'separation rule.' The fire insurance companies represented in the Insurance Executives Association have made a commitment to the Superintendent of Insurance of the State of New York that they will not, by agreement or acquiescence, be bound to any rules involving the principles of 'separation' or 'non-intercourse.' Let us hope that these efforts to preserve freedom of enterprise will be successful.

I have already stated that one of the charges which was made following the *South-Eastern Underwriters Association* decision was that it would mean the end of the American agency system. Here again, I think that the passage of time has clearly demonstrated the baseless nature of the claim. There was nothing in the Department's case nor in the Court's opinion which could in any way reflect upon the agency system. Nor does the organization of agents into associations for the furtherance of competitive objectives draw with it condemnation under the Sherman Act. It is the natural tendency of individuals with common interests to group themselves for common advantage. In business and labor, in agriculture, among veterans and others, an improved understanding of the relation of individual interests to community interests can thus be promoted. There is no inherent inconsistency between the existence of such organizations and the principles of a free economy. Associations can properly exist in the insurance field just as they do in almost every field of business subject to the antitrust laws. These associations can aid in promoting the democratic process. But the power of any group must not be perverted to serve selfish or special interests to the detriment of the broad social or economic order. They must not further monopolistic practices or restrict the freedom of the channels of commerce. Social responsibility is a necessary characteristic of group activity.

Insurance agents and their organizations have long been an integral part of the competitive aspect of the insurance business. It is to the agent that the purchaser of insurance looks for advice and guidance. The agent is most important in interstate insurance distribution. Insofar as the activities of agents are part of the stream of interstate commerce or affect that commerce, they must avoid practices which hamper free operation of the insurance market or free access to that market.

I believe that the Sherman Act stands between all industry and government control. I believe that it stands between the insurance industry and further government control. I have pointed out that concentration of private power in industry becomes a challenge and an invitation to those who would concentrate economic control in government. If competition is not a satisfactory regulator of the market, then the government ultimately becomes the regulator. In some fields, notably public utilities, we have long accepted the inevitability of government regulation. But it is traditional American belief that the field of industrial life in which government regulation is substituted for competition should be kept as narrow as possible. Every time an exemption is made from the antitrust laws, some form of government regulation must sooner or later be substituted. The American people would not long put up with unregulated monopoly.

I therefore, strongly urge that businessmen should deplore the tendency of special groups to seek legislative exemption from the Sherman Act. The moratorium period provided by the McCarran Act allows ample time for the states to work out appropriate state regulatory legislation and for the industry to adjust itself to such changes in practices as seem necessary to comply with the Sherman Act. I hope that the industry will not feel that it is necessary to seek additional legislative exemption from the Sherman Act. Other groups—the railroads and press associations—have gone to Congress seeking antitrust exemption. I am confidently expecting that Congress will refuse to take any of these groups out of a society of free enterprise. I believe that to do so would in the long run, merely be to create the necessity for further and more stringent government regulation of these industries—a result which I would not like to see occur.

In cooperation with government, industry must work to perpetuate a free economy. Wise leadership is essential. For if our present system fails, if free enterprise becomes a sham and not a reality, if private groups abuse



their privileges—then industry will have taken a step toward public control from which there may be no returning.”

There are the remarks of a Federal official whose Department was responsible for the initiation of the litigation which culminated in the decision in the South-Eastern Underwriters’ case. His thoughts herein set forth should be carefully considered by the members of the Legislature in connection with the drafting of legislation designed to avoid Federal intervention in connection with the supervision of the business of insurance.

Let me now briefly deal with the series of events which have brought us to the point of considering the revision of some of our State laws and the enactment of a number of new State laws.

#### THE S.E.U.A. CASE

On June 5, 1944, the Supreme Court of the United States in *United States v. South-Eastern Underwriters Association, et al.*, 322 U. S. 533, 88 L. ed. 1440, held that the business of insurance was commerce, that when conducted across state lines it was interstate commerce, and therefore subject to the Sherman Anti-Trust Act. (The full text of this case is included in the Report of the Commissioner of Insurance of this Commonwealth for the year 1944).

This was a criminal prosecution brought in the District Court of the United States for the Northern District of Georgia against an organization of fire insurance companies operating in Georgia and surrounding states, and against 27 of its officers and 198 of its member companies. The indictment alleged a conspiracy to fix and maintain arbitrary and non-competitive premium rates and to monopolize trade and commerce in violation of the Sherman Anti-Trust Act. Demurrer to the indictment was sustained in August 1943. On appeal, the Supreme Court of the United States reversed the District Court by a 4 to 3 decision (Justices Roberts and Reed having disqualified themselves) and thus sustained the indictment. It did so on the ground that the defendants were engaged in interstate commerce and therefore subject to the Sherman Act. The opinion of the Court (written by Justice Black; Justices Murphy, Douglas and Rutledge concurring) distinguished the line of cases starting with *Paul v. Virginia* (1869), 8 Wall. 168, on the basis that the earlier cases involved the validity of state statutes and that this was the first case squarely presenting the question of whether the Commerce Clause grants to Congress the power to regulate insurance when conducted across state lines. There was a dissenting opinion by Chief Justice Stone, Justice Frankfurter concurring, and a separate dissenting opinion by Justice Jackson.

#### THE POLISH ALLIANCE CASE

On the same day, the Court held in a unanimous decision in the case of *Polish National Alliance v. National Labor Relations Board*, 322 U. S. 643, 88 L. ed. 1509, that a fraternal benefit society was subject to the National Labor Relations Act because the defendant was an insurance company and that its operations “affect” commerce within the meaning of that act. The opinion was written by Justice Frankfurter. While the S.E.U.A. case has been the subject of the most frequent and comprehensive discussion, a study of the Polish Alliance case will indicate the importance of this case in paving the way for Congressional regulation of the insurance business under the Commerce Clause of the Constitution of the United States. (The full text of the Polish Alliance case is included in the 1944 Report of the Commissioner of Insurance of this Commonwealth.)

#### ANALYSIS OF THE ACT

I have included United States Public Law 15 as a part of this Report for your convenience in considering the discussion of this Act. The full text of the Congressional Act follows.

## [PUBLIC LAW 15—79TH CONGRESS]

## [CHAPTER 20—1ST SESSION]

## [S. 340]

## AN ACT

TO EXPRESS THE INTENT OF THE CONGRESS WITH REFERENCE TO THE REGULATION  
OF THE BUSINESS OF INSURANCE

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: Provided, That after January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Sec. 3. (a) Until January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, and the Act of June 19, 1936, known as the Robinson-Patman Anti-discrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation.

Sec. 4. Nothing contained in this Act shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935, as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Sec. 5. As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and the District of Columbia.

Sec. 6. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

Approved March 9, 1945.

## ANTI-TRUST MORATORIUM

After the *SEUA* decision, it was obvious that the insurance business would need some time in which to become readjusted to its newly acquired status under the Federal Anti-Trust Act and related federal laws. This was especially true of various types of property insurance for which industry rate-making had been

found to be necessary. Congress accordingly enacted the McCarran Act (text on facing page) which created the so-called moratorium period. It specifically made the Sherman Anti-Trust and related acts inapplicable to the business of insurance until January 1, 1948. (See § 3a, above.) It provides that even during the moratorium period, as well as thereafter, the Sherman Act is to remain applicable to boycott, coercion and intimidation. (See § 3b, above.)

It further provides that after the end of the moratorium period, the Sherman Act, Clayton Act and the Federal Trade Commission Act are to be applicable to the business of insurance "to the extent that such business is not regulated by State law." (See § 2b.)

#### CONGRESSIONAL CONSENT

Another important and distinct part of the McCarran Act is a declaration by Congress that the continued regulation and taxation by the states of the business is in the public interest and that silence on the part of Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the states (§ 1). Section 2(a) provides that the business of insurance shall be subject to state laws which regulate and tax it. (See 1946 Decisions.)

*For legislative history of the Act see Bibliography.*

The first part of Section 2(b) has been included in U. S. Public Law 15, to avoid the surprise application of Federal laws to the business of insurance. To enjoy the full benefit of this protection, it will be necessary for the insurance business to scrutinize carefully proposed Congressional Acts regulating interstate commerce and make known the position of the industry with respect to any proposed act which specifically relates to the business of insurance. Eternal vigilance in this regard is imperative.

#### THE 1946 SUPREME COURT DECISIONS

On June 3, 1946, the United States Supreme Court, in two decisions, effectively disposed of two questions arising out of the *South-Eastern* decision (namely, whether state laws which regulate and those which tax insurance violate the Commerce Clause because insurance has now been held to be commerce).

In *Prudential v. Benjamin*, the Court *with* the aid of Public Law 15, sustained the power of a state to impose a premium tax on the commerce of insurance even though the tax applied only to foreign, and not to domestic, companies.

In *Robertson v. California*, the Court *without* regard to Public Law 15, upheld state regulatory power exerted over such commerce.

A week later, the Court affirmed, without opinions, decisions by the Kansas Supreme Court upholding not only a similar premium tax but also the Kansas retaliatory tax. (See opposite page, last paragraph, for names of cases.) The retaliatory tax law of Kansas, which is similar to that in 28 other states, imposes an additional tax on companies from any foreign state to the extent that such foreign state's tax exceeds the Kansas tax. The validity of such laws was upheld by these decisions.

#### CITATIONS & DIGESTS

##### STATE REGULATORY LAWS UPHELD

*F. O. Robertson v. The People of California* (90 L. ed. Adv. Op. 1040). Rehearing denied October 14, 1946. (The full text of the decision is included in this Report as Appendix "A".)

Robertson, prior to passage of Public Law 15, was convicted of violating two California statutes in that he (1) acted in California as agent for a non-admitted



(Arizona) insurer, and (2) acted as an agent without an agent's license. His defense was that he was engaged in interstate commerce and his acts, therefore, were beyond reach of the state's regulatory powers.

The Court affirmed the conviction under both counts. It upheld the California statutes on the assumption that their effect was to exclude Robertson's company from its borders unless the state's reserve requirements were complied with. It ruled such exclusion valid inasmuch as the reserve requirements constituted a necessary and reasonable means of securing, in the interest of the public welfare, a minimum assurance to the state's policyholders as to the performance of their policies. (Douglas dissented from this part of the decision.)

Public Law 15 was *not* relied upon because to do so would have involved a "semblance" of an *ex post facto* effect.

#### PREMIUM TAXES UPHELD

*The Prudential Insurance Company of America v. L. George Benjamin as Insurance Commissioner of the State of South Carolina* (90 L. ed. Adv. Op. 1023.) The full text of the Opinion of the Supreme Court is included in this Report marked Appendix "B."

South Carolina exacted of Prudential, a New Jersey corporation, a 3% tax on aggregate premiums received from business done in that state. No similar tax was required of South Carolina corporations. Prudential contended that this statute was a discrimination against interstate commerce to which Congress, through Public Law 15, by declaring in favor of continued state regulation and taxation, either did not or could not give its consent.

The court upheld the tax. It declared that the Commerce Clause is not a limitation of the power of Congress over interstate commerce, but rather a grant to Congress of plenary and supreme authority over that commerce. The only limitation on congressional power thereunder is as to what constitutes commerce. In enacting Public Law 15, the Court stated, Congress must have known of existing tax and regulatory systems and intended to throw the whole weight of its power behind the state's system.

There is a feeling among some life insurance executives that this case cannot be too heavily relied upon as authority for the right of the State to oppose discriminatory taxes upon out-of-State insurance companies. It is felt that the dicta in this case justifies the inference that the special circumstances here presented dictate caution reaching the definite conclusion that this case settles the question of the right of the States to levy taxes on foreign insurance companies which may be construed to unduly burden commerce.

#### RETALIATORY TAXES UPHELD

*American Indemnity Co. v. Hobbs, Pacific Mutual Life v. Hobbs* (160 Kan. 300, 161 Pac. (2d) 726, 90 L. ed. Adv. Op. 1258). Petition for rehearing filed by *American Indemnity*; denied October 14, 1946.

Per curiam decisions (which along with *Aetna v. Hobbs* and *Prudential v. Hobbs* of the same day—same citations) affirmed the Kansas Supreme Court's decision in *In re Insurance Tax Cases*, 160 Kan. 300, 161 Pac. (2d) 726 (see Bibliography hereof for further discussion). The first two upheld the validity of the Kansas premium tax imposed under its retaliatory law. The other two per curiam decisions on the same day (*i. e.*, *Prudential v. Hobbs* and *Aetna v. Hobbs*) upheld the regular Kansas premium tax. All four decisions merely cited *Prudential v. Benjamin* and *Robertson v. California*.

#### MEMBERSHIP OF ALL-INDUSTRY COMMITTEE

The All-Industry Committee was organized in May 1945 at a joint meeting of the Federal Legislation Committee of the N. A. I. C. and representatives of

the insurance industry to aid in the formulation of a legislative program to strengthen existing state laws within the meaning of Section 2b of the McCarran Act. It is made up of representatives of the following organizations:

- American Institute of Marine Underwriters
- American Life Convention
- American Mutual Alliance
- American Reciprocal Association
- Associated Factory Mutual Fire Insurance Companies
- Association of Casualty and Surety Executives
- Bureau of Personal Accident and Health Underwriters
- Health and Accident Underwriters Conference
- Inland Marine Underwriters Association
- Insurance Executives Association
- Life Insurance Association of America
- National Association of Casualty and Surety Agents
- National Association of Independent Insurers
- National Association of Insurance Agents
- National Association of Insurance Brokers
- National Association of Mutual Insurance Agents
- National Board of Fire Underwriters
- National Fraternal Congress of America
- Surety Association of America

#### NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

The interest of the State Insurance Commissioners in the court proceedings which culminated in the SEUA decision was manifested early by a resolution adopted at the mid-year meeting of the National Association of Insurance Commissioners in November, 1943. This resolution reaffirmed the position of the Commissioners in favor of continued regulation of the insurance business by the several states.

Through its specially appointed Committee on Federal Legislation, the Commissioners took a very active part in the formulation of federal legislation which eventually became the McCarran Act—Public Law 15. This Committee held hearings over a period of several months (see Bibliography for dates) and as a result of its study prepared a proposed bill which was submitted to Congress (90 Congressional Record, p. 9628) and which in somewhat altered form became Public Law 15.

Following the enactment of the federal act, the attention of the Commissioners was directed at the formulation of state regulatory legislation to meet the situation. The cooperative efforts of the Commissioners and the All-Industry Committee are described in the following paragraphs. Further details of the activities of the Commissioners are referred to in the Bibliography.

#### ALL-INDUSTRY COMMITTEE

The work of the All-Industry Committee can best be described by quoting from a letter its Secretary wrote to Senator McCarran in September, 1946, in answer to an inquiry by the Senator as to what steps the business of insurance had taken to comply with Public Law 15:

"The All-Industry Committee was organized in May, 1945, at a joint meeting of the Committee on Federal Legislation of the National Association of Insurance Commissioners and representatives of the insurance in-

dustry and, as presently constituted, is composed of nineteen national insurance organizations representing all branches of the insurance business (Life, Fire, Marine, Accident and Health, Casualty and Surety; Stock, Mutual, Reciprocal and Fraternal; Bureau and Independent companies; Agents and Brokers).

"Since its organization, the All-Industry Committee has held ten meetings [*as of September 6, 1946—other meetings have since been held*]. These meetings have consumed twenty-three days, exclusive of time spent in research and study. In addition, there have been numerous meetings of the Committee's several sub-committees. All of these meetings have been open to any interested company representatives and many such representatives attended the meetings. Several meetings were joint meetings with committees of the National Association of Insurance Commissioners and all other meetings were attended by representatives of that organization.

"Because of the scope and great importance of the problem, the Committee decided that rate regulatory legislation should be the first matter for consideration. Careful study and consideration developed the view that, with respect to fire, inland marine, casualty and surety insurance, the important objectives of safeguarding insurance company solvency and ensuring fair and equitable practices in the public interest could most certainly be secured under a state regulatory system which permitted cooperative activity in rate making to be conducted under adequate and affirmative regulatory safeguards. It was recognized that such activities might, in the absence of state regulation, be violative of the Sherman Act and thus that state regulation of the sort which would make the Sherman Act inapplicable was essential. It was also believed that the preservation of competitive opportunity in the insurance business was likewise essential and that this objective should likewise be secured, to as great an extent as was possible without defeating the paramount objectives.

"Our efforts and those of the National Association of Insurance Commissioners have been directed not only toward developing rate regulatory bills under which these objectives would be secured but at attaining a proper balance among them. Divergent and sometimes conflicting views had to be reconciled, not only among various branches of the industry but also among insurance commissioners and between insurance commissioners and the industry.

"As a result of this cooperative work of the Committee and the National Association of Insurance Commissioners, two rate regulatory bills have been developed which, we believe, fulfill the stated objectives. One bill pertains to fire and marine insurance and the other to casualty and surety insurance. These bills were reported to the National Association of Insurance Commissioners' Committee on Rates and Rating Organizations by that committee's sub-committee in June, 1946. The sub-committee's report observed that 'the science of rate making is a progressive one and as time passes changes and improvements will, no doubt, suggest themselves. However, in the light of present day thinking and for those states which subscribe to the principles set forth in the bills, the Committee recommends their use at this time', and requested the Committee on Rates and Rating Organizations to submit the bills to the National Association of Insurance Commissioners with a recommendation that the bills and the report be approved and adopted by the Association. The sub-committee's report was considered and unanimously adopted at a joint meeting of the Rates and Rating Organizations Committee and the Federal Legislation Committee and thereafter by the National Association of Insurance Commissioners at the Portland meeting in June, 1946. A copy of the report so adopted is enclosed as well as copies of the two bills.

"Insurance rate regulatory legislation was introduced in many of the state legislatures that met in regular session in the early part of 1945. Pub-



lic Law 15, however, became effective March 9, 1945, when state legislative programs for that year were already well advanced or completed, thus precluding introduction of regulatory legislation which had been developed in light of the provisions of Public Law 15. Nevertheless ten states did enact new rate regulatory laws in 1945 while fifteen states established legislative or other official commissions to study the problem and to report to the next sessions of their respective legislatures. In 1946 only nine state legislatures met in regular session. In some of these states rather comprehensive systems of rate regulation already existed. In three of them, however, new rate regulatory laws along the lines of the Commissioners—All-Industry bills were adopted.

"It should be noted that at present 35 states have some type of fire rate regulatory law, 35 states regulate rates for Workmen's Compensation insurance, 23 states regulate rates for automobile liability insurance, and 19 states also regulate other casualty insurance. Several of these laws must be changed, some slightly and some drastically, in order to meet the desired pattern and it is anticipated that corrective legislation will be enacted, as time permits, which will bring about a reasonably close alignment between the proposed rate regulatory bills and the state laws.

"Copies of all existing insurance rate regulatory laws are enclosed with the 1945-1946 legislation appropriately identified.

"Naturally our work has been pointed most directly at those states having no rate regulatory laws and at those in which extensive overhauling is needed.

"In 1947 forty-four state legislatures will be in session and it is confidently expected that the legislatures of those states requiring rate regulatory legislation will be presented with carefully prepared drafts of bills, adapted to the situation in the respective states, under which rate regulation in the public interest can be achieved.

"A vast amount of work has been done not only in connection with rate regulatory legislation but also in connection with the other problems presented by the imminence of the applicability to insurance of the Sherman Act, the Federal Trade Commission Act, the Clayton Act and possibly the Robinson-Patman Act, and much remains to be done and it will be done. Many will share in it, including the many legislative commissions and committees, the National Association of Insurance Commissioners and the insurance All-Industry Committee.

"We trust that this letter and the accompanying material supplies the information which you requested. We shall, of course, be most happy to undertake to supply whatever additional information you may desire and as conclusions are arrived at with respect to other matters we shall supply your office with the materials relating thereto.

Yours very truly,

HENRY WOOD  
Secretary of All-Industry Committee."

The Insurance Commissioners' and the All-Industry Committees are continuing their joint study of all phases of the problem. Matters other than rating are being searchingly dealt with and it is anticipated that agreement will be reached soon on these matters also.

The goal of this intensive study by the National Association of Insurance Commissioners and the insurance industry is to work out a pattern for state legislation to strengthen existing state insurance regulatory laws, and thus meet the challenge laid down by the McCarran Act.

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## McCARRAN ACT (P. L. 15, S. 340 OF 79TH CONGRESS)

## DOCUMENTS AND LEGISLATIVE HISTORY

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2. As introduced by Messrs. McCarran and Ferguson, January 18, 1945. Referred to the Senate Judiciary Committee.
3. Senate Judiciary Committee appoints Special Insurance Subcommittee, January 22, 1945, consisting of the following members: Messrs. McCarran, O'Mahoney, Chandler, Ferguson and Moore.
4. As reported by Senate Judiciary Committee, Senate Report No. 20, January 24, 1945.
5. As amended, Senate Floor, by Senator Ferguson, January 25, 1945.
6. As passed by Senate, January 25, 1945. Debate, 91 Congressional Record, January 25, 1945, pp. 478-488.



7. Bill as passed by Senate and sent to House of Representatives, January 29, 1945. Referred to Judiciary Committee.
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17. Approval message of President, March 9, 1945. 91 Congressional Record, p. 1992.
18. Letter, Attorney General Biddle to Moses Lasky, Insurance Brokers Association, San Francisco, California. Released April 1, 1945.

### WALTER-BAILEY-VAN NUYS BILL

*(A 1944 proposal—which failed—to exempt insurance from the anti-trust acts.)*

#### DOCUMENTS AND LEGISLATIVE HISTORY

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9. (S. 1362). Transcript, Testimony before Senate Subcommittee, May 26, 27, 1944.

<sup>1</sup> Rep. Walter introduced Feb. 2, 1945, H.R. 1973, identical to S. 340 as approved by House Judiciary Subcommittee No. 3, same day. Referred to House Judiciary Committee. Report No. 68, House Judiciary Committee, Feb. 8, 1945. Debate, Excerpt, 91 Congressional Record, Feb. 9, 1945, pp. 1006, 1007.

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3. H.R. 1590. Introduced by Mr. Walter, Jan. 17, 1945. Referred to Judiciary Committee.
4. H.R. 2021. Introduced by Mr. Walter, February 6, 1945. Referred to Judiciary Committee.

#### NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

1. Hearings of Federal Legislation Committee of National Association of Insurance Commissioners in regard to legislation which eventually became Public Law 15.
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  - Chicago—August 16-18
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  - Chicago—September 29-October 2
  - Chicago—November 9-12, 1944
2. Citations of Proceedings of the National Association of Insurance Commissioners involving the question of insurance as interstate commerce.
  - Resolution presented by Committee on Federal Legislation relating to state regulation. 1944, pages 54-55.
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#### CASES IN THE SUPREME COURT AFTER *SEUA* CASE

1. *F. O. Robertson v. The People of the State of California.*  
*In the Superior Court of the State of California in and for the County of Ventura:*
  - a. Reporter's Transcript of Proceedings and Entire Record of Proceedings in Justice Court of Ventura Township, County of Ventura, State of California.
  - b. Opinion, April 20, 1945. (Not reported)*In the Supreme Court of the United States:*
  - a. Statement as to Jurisdiction.
  - b. Appellant's Opening Brief.
  - c. Brief for Appellee.
  - d. Brief of Amici Curiae (Agents Ass'n) in Support of Appellee.
  - e. Brief of the State of New York, as Amicus Curiae.
  - f. Transcript of Oral Argument.
  - g. Decision of the Supreme Court of the United States, June 3, 1946 (90 L. ed. Adv. Op. 1040).
  - h. Rehearing denied, Oct. 14, 1946.
2. *The Prudential Insurance Company of America v. L. George Benjamin, as Insurance Commissioner of the State of South Carolina.*  
*In the Supreme Court of the United States:*
  - a. Statement as to Jurisdiction.
  - b. Motion to Dismiss or Affirm.
  - c. Brief in Opposition to Motion to Dismiss or Affirm.
  - d. Brief for Appellant.
  - e. Questions asked by the Court during Oral Argument.
  - f. Decision of the Supreme Court of the United States, June 3, 1946 (90 L. ed. Adv. Op. 1023).
3. The Kansas premium tax cases also challenged the validity of a premium tax imposed on foreign (but not domestic) insurance companies. Plaintiffs in these Mandamus proceedings (to compel issuance of licenses to companies refusing to pay the tax) were *Aetna Insurance Company*, the *Prudential*, the *American Indemnity* and the *Pacific Mutual*, and other companies. The last two named



companies challenged the Kansas retaliatory tax as well as the Kansas premium tax.

The Kansas Supreme Court upheld the tax in *In Re Insurance Tax Cases*, 160 Kan. 300, 161 P. (2d) 726. Rehearings were denied as to the four above-named companies who appealed to the United States Supreme Court. The Kansas Court took no action on the rehearing applications of the remaining companies pending the four appeals to the United States Supreme Court.

On June 10, 1946, by Per Curiam decision, 90 L. ed. Adv. Op. 1258, Affirmed the above four appeals, Dockets 789, 790, 791 and 792, citing *Prudential v. Benjamin*. Petitions for rehearing filed by Aetna, Docket 790, and American Indemnity, Docket 791; both denied October 14, 1946.

Other jurisdictions in which actions to contest premium taxes on foreign companies, with no corresponding taxes on domestic companies, were brought in the following states: Alabama, California, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Nebraska, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Wisconsin.

All of these actions were discontinued after the *Benjamin* decision.

## STATE LEGISLATION

### EXCULPATORY LAWS

In 1945, the Legislatures of the following 21 states, because of the doubts created by the *SEUA* case as to the validity of certain state regulatory and tax laws, enacted statutes exempting officers and directors of insurance companies for any liability for paying taxes or fees pursuant to state laws which might be held to be unconstitutional:

Arizona	Maryland	North Carolina
Arkansas	Massachusetts	Oregon
California	Michigan	Pennsylvania
Connecticut	Minnesota	Rhode Island
Delaware	Nevada	Texas
Indiana	New Jersey	Vermont
Maine	New York	Virginia

We favored the new legislation in 1945 as a temporary measure, because, as a general proposition, we do not subscribe to the idea that officers and directors should be relieved of liability attendant to the duties of a trustee. We did not share the doubt concerning the validity of State tax laws when this legislation was proposed. Our position has been fortified by the decision in the case of the *Prudential Insurance Company of America v. L. George Benjamin* (Supra). We have strongly supported legislation to equalize the premium tax in this State in order that all doubt concerning the question of validity of unequal tax between domestic and foreign companies might be resolved.

### EQUALIZING AMENDMENTS TO PREMIUM TAXES

Legislation was enacted in 18 states to amend premium tax laws which had applied to foreign and not domestic companies (or in some instances had taxed domestic companies at a lower rate) and which, prior to the Supreme Court's decision in 1946, *Prudential v. Benjamin*, were feared to violate the Commerce Clause of the Federal Constitution. These states are:

Alabama	*Maine	*Oregon
*Arizona	Missouri	South Dakota
Arkansas	New Hampshire	*Tennessee
Connecticut	New Jersey	*Texas
Florida	*New Mexico	Washington
*Iowa	Oklahoma	West Virginia

\* Retaliatory laws were repealed in these states and 6 others (California, Colorado, Delaware, Georgia, Maryland, and North Carolina).

## RATE REGULATORY BILLS

Ten states in 1945 enacted new rate regulatory laws. 15 states established legislative or other official commissions to study the problem. In June 1946, the National Association of Insurance Commissioners, in Portland, Oregon, adopted reports of its committees approving two model rating laws. One model bill pertains to fire and marine insurance and the other to casualty and surety insurance (texts reprinted in Journal of Commerce 5-29-46). These bills are attached to the report of the Sub-Committee on Rates and Rating Organizations, included in Appendix "C" of this Report.

The report of the All-Industry Committee, with respect to casualty, surety, fire and marine and inland marine rate regulatory bills received at the Convention of the National Association of Insurance Commissioners at Portland, Oregon, on June 11, 1946, is included as Appendix "F".

So many representations and misrepresentations have been made during the current year with respect to the extent of the endorsement by interested parties of the rate regulatory bills, forming part of Appendix "C", that it is important for the Legislature to know the extent to which the Industry committed itself to support the rating bills which were the subject of action by the National Association of Insurance Commissioners. The motion made by Walter Bennett, which was duly seconded and unanimously adopted, is loosely worded as follows: "I move that the All-Industry Committee approve and accept the casualty and surety rate regulatory bill and the fire, marine and inland marine rate regulatory bill, each dated May 18, 1946, including the footnotes contained therein; I further move that the Committee recognize that the science of rate-making is a progressive one and that as time passes, changes and improvements will no doubt suggest themselves as being of sufficient importance to require additional consideration of this Committee." The same language is included in the report of the Sub-Committee of the Committee on Rates and Rating Organizations dated May 22 and 23, 1946, and evidences the extent to which the National Association of Insurance Commissioners committed itself with respect to these bills. (Appendix "C").

I mention this motion at this time because considerable difference of opinion has developed concerning the kind of regulation required to protect rating bureaus whose members act in concert in the matter of fixing rates from the penalties imposed by the Sherman Act. The nature and extent of the disagreement among the parties seeking legislation in this State is contained in the transcript of the proceedings before the Recess Commission on Insurance composed of the members of the Insurance Committee at hearings held on November 20, 21 and 27, 1946. At those hearings, there was produced two important pamphlets which had not been made available to the Commissioners' Committee on Rates and Rating Organizations of the National Association of Insurance Commissioners. These pamphlets are the First, Second and Third Reports of the Sub-Committee of Lawyers to the Committee on Laws of the National Board of Fire Underwriters pursuant to a resolution adopted May 9, 1945, at a meeting of the Committee on Laws. I have included this pamphlet as Appendix "G" of this Report, because it contains information which should be very valuable to the Legislature deciding the momentous questions related to rate regulation, which will occupy their notice. The Fourth and Fifth Reports of the same Committee are included in this Report marked Appendix "H". The information contained in Appendix "H" is of particular interest in view of differences of opinion now existing.

It has been my opinion for a number of months and it is still my opinion at the date of this Report that the least possible regulation should be imposed upon the industry at this time, in order that opportunity may be afforded to the insurance companies to decide the extent to which it is *necessary* for them to combine for the *purpose of assuring the use of rates* which are made in concert. Another, and an equally important reason, is the terrific problem which will confront the staff of the Insurance Department in undertaking the duties which may be im-

posed upon the Department in connection with the supervision of all types of insurance rates. It should be remembered that the imposition upon our staff of heavy responsibilities and widespread activities will require an appropriation and personnel sufficient to administer the law which is enacted. I hope this will be very carefully considered by the Legislature at the next session when undoubtedly rate regulatory bills will be enacted.

The rate regulatory bills, which form a part of Appendix "C", contain a footnote relating to the subject of profit to be allowed the insurance carriers in the rates. The note reads as follows: "The All-Industry Conference Committee believes the word 'underwriting' should precede the word 'profit'." The National Association of Insurance Commissioners is giving further study to this matter. Your Commissioner is serving on a sub-committee with Superintendent Dineen of New York and Commissioner W. Ellery Allyn of Connecticut, for the purpose of making a study and reporting on this important problem. It is well-known that a reasonable profit must be allowed all industries subject to public rate regulation. The question before the Commissioners is the method of determining a reasonable profit. A number of Commissioners, including the writer, feel that the 1921 Standard Profit Formula is out-moded and should be replaced by a formula in keeping with modern concepts and underwriting methods. The sub-committee hereinbefore referred to has produced its first report, which is included herein marked Appendix "I". The publication of this report resulted in considerable controversy predicated on the false assumption that the sub-committee had reached a determination of the method of computing profit or underwriting profit and that other facets of the problem were not fairly treated. These conclusions are entirely unjustified as reference to the final paragraph attached to Appendix "I" will indicate. It has been definitely and unequivocally stated that "no inference should be drawn that the sub-committee has made a determination upon any aspect of the matter." This report will be supplemented by a subsequent report or reports as the work of the committee progresses. Appendix "I" is considered of sufficient importance to place before the Legislature for consideration at this time.

#### THE ROBINSON-PATMAN ACT—THE FEDERAL TRADE COMMISSION ACT—THE CLAYTON ACT AND PROPOSALS FOR THE REGULATION OF ACCIDENT AND HEALTH INSURANCE.

The All-Industry Committee favored the joint Committees on Rates and Rating Organizations and Federal Legislation of the National Association of Insurance Commissioners with reports dealing with the treatment of the Robinson-Patman Act on a State level, the treatment of the Federal Trade Commission Act on a State level, the treatment of the Clayton Act on a State level and proposals for the regulation of the accident and health business. All of these matters were carefully considered by the Commissioners' Committees at its meetings held on October 23 to 26, 1946. The progress made by the Committees in the consideration of these matters is evidenced by the report of these two Committees which is made a part of this Report marked Appendix "E". The importance of enacting some type of legislation which will constitute regulation sufficiently comprehensive to parallel the Federal Trade Commission Act is of extreme importance if the maximum State supervisory freedom is to be obtained under the provisions of United States Public Law 15.

It was not possible to reach a final determination of the type of legislation which should be suggested for enactment in the several States prior to the end of 1946. The reports of the Committees on Rates and Rating Organizations and Federal Legislation of the National Association of Insurance Commissioners, covering the meetings of December 3 to 7, inclusive, 1946, was adopted by the National Association of Insurance Commissioners at the December meeting. Copy of that report, with related exhibits, is included as Appendix "J" in this Report. It is evident from this report that during the year 1947, an effort will



be made to dispose of the unsettled matters. These reports demonstrate the extent to which your Commissioner has participated in the national conferences undertaken by the Industry and State supervisors jointly for the purpose of preparing legislative proposals designed to take full advantage of the invitation of the Congress to appropriately regulate the business of insurance at the State level. The Insurance Industry and the Commissioners of Insurance have labored diligently for many days and many long hours on the momentous problems with which your Honorable Body is confronted. The results of our efforts have been made available through the medium of your Committee on Insurance.

I would be remiss in my duty if I did not commend the intelligent and industrious Committee on Insurance who have given unstintingly of their time, sitting as a commission and as the Committee on Insurance, to the study and consideration of the various matters which will enable them to make appropriate recommendations for the consideration of the Legislature. It has been a pleasure and a privilege to work with each and every member of this fine group of public officials.

### *Valuation of Securities*

The responsibility imposed upon the Commissioner by the General Laws to appropriately value securities held by the various insurance companies under our supervision has been discharged with the assistance of the Committee on Valuation of Securities of the National Association of Insurance Commissioners. It is self-evident that security values should be determined on a national basis, particularly where there is no available market from which to procure the current prices. Rules and regulations, relating to the amortization of bonds, should likewise be established at the national level. Your Commissioner has for several years occupied the position of Chairman of the Sub-Committee on Valuation of Securities—an organization which supervises a specially trained staff of assistants who devote their entire time to the study of balance sheets, statements, statistical data, evidences of security or debt, legal documents and all other materials necessary to intelligently determine the value of the thousands of securities held by the various insurance companies under the supervision of the several States. The technical staff is under the direct supervision and direction of the Sub-Committee on Valuations, which reports to the full Committee on Valuation of Securities. Acting under the authority conferred upon the Commissioner of Insurance by the General Laws, I have promulgated rules and regulations to be followed by all Companies in connection with the completion of their annual statement of financial condition. Following are the resolutions which have been adopted for use by all companies authorized to transact business in this State:

#### ASSOCIATION VALUES

*Resolved*, that for the inventory of stocks, other than of insurance companies and subsidiaries, and bonds in the annual statements of insurance companies, societies and associations as of December 31, 1946 the following basis is recommended as fair market value:

1. That all stocks, other than of insurance companies and subsidiaries, and bonds shall be valued at the market quotations as of December 1, 1946, excepting bonds secured by the full faith, credit and taxing power of political subdivisions of the United States of America and of political subdivisions of the Dominion of Canada which are not in default as to principal or interest on December 1, 1946. In the case of securities not quoted on December 1, 1946 the latest available information shall be used. Values of insurance companies stocks as of December 1, 1946 shall be published in the book of Valuations of Securities. These values should be used only in statements filed with those states whose departmental practices or laws require the use of market value quotations in determining the values allowable on insurance stocks.

2. That stock valuations shall include accrued dividends on preferred stocks and dividends declared and accrued on all stocks and shall be determined in accordance with the following rules:
  - (a) Where a stock sold ex-dividend on December 1, 1946 and a dividend is payable in December, the December 1 price is to be used.
  - (b) Where a stock sold ex-dividend on or before December 1, 1946 and the dividend is payable on or after January 1, 1947, the amount of the dividend is to be added to the December 1 price.
  - (c) Where a stock did not sell ex-dividend until after December 1, 1946 and a dividend is payable in December, the amount of the dividend is to be deducted from the December 1 valuation.
  - (d) Where a stock did not sell ex-dividend until after December 1, 1946 and the dividend is payable on or after January 1, 1947, the December 1, 1946 price is to be used.
3. That where a bond is quoted "flat" on December 1, 1946 and interest is paid in December, the amount of the interest shall be deducted from the December 1, 1946 valuation.

#### AMORTIZATION OF BONDS

*Resolved*, that for submission of annual statements to the various State Insurance Departments as of December 31, 1946, bonds not in default as to principal or interest, which are certified by the insurer submitting the statement to be amply secured, shall be so deemed and shall be amortizable provided they are not income or perpetual bonds and provided they are included in any one of the five classifications described below:

1. All bonds issued, assumed or guaranteed by the United States of America or the Dominion of Canada and all bonds secured by the full faith, credit and taxing power of political subdivisions of the United States of America and of political subdivisions of the Dominion of Canada, which are legal for investment by insurance companies under the laws of the respective states.
2. All special revenue bonds of any state of the United States of America or any political subdivision thereof or any agency or instrumentality of any of the foregoing and all corporate bonds which on June 1, 1946 were included in any of the four highest grades of any two recognized rating agencies.
3. All special revenue bonds of any state of the United States of America or any political subdivisions thereof or any agency or instrumentality of any of the foregoing and all corporate bonds on which the yields to maturities based on December 1, 1945 and on December 1, 1946 Association Values do not, in the first case, exceed 2.10%, and in the second case 1.80% plus the yield for comparable maturities of fully taxable U. S. Government Treasury obligations at the respective dates. Bonds which were not outstanding on December 1, 1945 shall be deemed amply secured and amortizable if the yield to maturity based on December 1, 1946 Association Values does not exceed 1.80% plus the yield for comparable maturities of fully taxable U. S. Government Treasury obligations.
4. Any bond issued by the same corporation and other corporate bonds and all special revenue bonds of any state of the United States of America or any political subdivision thereof or any agency or instrumentality of any of the foregoing which, in the judgment of the Sub-Committee of the Committee on Valuation of Securities, are equivalent in security to those bonds hereinbefore described, provided that satisfactory evidence thereof is either already available or is made

available by insurance companies, societies and associations to the Sub-Committee on or before September 1, 1946 and approved by it.

5. All bonds of foreign governments, foreign subdivisions and foreign municipalities which in the judgment of the Sub-Committee are amply secured on the basis of the estimated ability of the respective obligors to make during the life of the issue, all contractual payments in the currency or currencies specified and at the places of payment stipulated in the bonds and upon evidence that such payments can be remitted to the United States at the official rate of exchange.

*Resolved*, that bonds in default as to principal or interest and all special revenue bonds of any state of the United States of America or any political subdivision thereof or any agency or instrumentality of any of the foregoing and all corporate bonds not meeting the tests described under classification 2, 3 or 4 of the foregoing Resolution and all income and perpetual bonds shall be deemed not eligible for amortization.

*Resolved*, that where quotations are obtainable, values of securities payable in foreign currencies shall be quoted in the book of Valuations of Securities at the appropriate foreign percentage quotation and at the appropriate Dollar quotation in the United States. Values based on the foreign percentage quotations should be used by insurance companies in their annual statements only if such companies have substantial policy liabilities payable in the currencies involved and establish an appropriate non-admitted asset on account of the exchange rate at which the assets and liabilities are expressed over the rate of exchange specified herein or if evidence is made available that such securities can be disposed of and the proceeds in such foreign currency can be converted into United States Dollars on the basis of such rate of exchange and remitted to the United States; provided, however, that nothing herein contained shall require the rate of exchange used in connection with securities payable in Canadian Currency to be other than the rate promulgated by the Canadian Foreign Exchange Control Board. The rates of exchange applicable at December 31, 1946 shall be the rates current at December 1, 1946.

*Resolved*, that in view of the fact that December 1st fell on Sunday in 1946, the references to that date in the resolutions of the Committee on Valuation of Securities adopted at the June 1946 meeting of the National Association of Insurance Commissioners, shall be deemed to refer to November 30, 1946.

*Resolved*, that the book of Valuations of Securities to be published in January, 1947, shall be prepared in accordance with the foregoing resolutions and contain a notation against each bond to indicate whether it is or is not amortizable.

*Resolved*, that in order to meet any unforeseen conditions which may arise, the Committee on Valuation of Securities shall have full power to amend the resolutions regarding market and amortized values which have been adopted at this meeting. Such amendments shall become effective immediately upon their approval by the Executive Committee of the Association.

*Resolved*, that the Sub-Committee of the Committee shall have full charge of the valuation and amortization work including disposition of unusual situations not adequately covered by the foregoing resolutions.

*Resolved*, that in cases where the condition of insurance companies, societies and associations may require the immediate disposition of securities, it is recommended that the discretion of the state supervisory officials of insurance should be exercised to vary the general formula herein set forth, so as to adopt prices reflected by the exchanges.



## INSTRUCTIONS TO COMPANIES ON PREPARING STATEMENTS

*Acquisitions made in December, 1946.*

Stocks and bonds acquired in December, 1946 and not listed in the book of Valuations of Securities should be valued at not exceeding cost and the company reporting any such stock or bond should be required to be prepared to justify the value at which carried.

*Amortizable Bonds on which no values are printed in the book.*

All bonds secured by the full faith, credit and taxing power of political subdivisions of the United States of America and of political subdivisions of the Dominion of Canada which are not in default as to principal or interest on December 1, 1946 and all amortizable bonds, on which no values are printed in the book of Valuations of Securities, the amortized values should be entered in the "Market Value" column of Schedule D, Part 1 as well as in the "Amortized Value" column.

*United States Savings Bonds.*

The following values shall be used for United States Savings Bonds in Schedule D, Part 1:

1. Market Values—Series "A", "B", "C", "D", "F" and "G". The redemption value at date of statement to be entered in the "Market Value" column (col. 7).
2. Amortized Values—Series "A", "B", "C", "D" and "F". The value to be entered in the "Amortized Value" column (col. 16) shall be, (a) the redemption value with no entry for accrual of interest in column 9, or (b) the actual cost if the company does take credit in column 9 for the difference between cost and redemption value, or (c) the value computed on a pro rata accumulation of discount or an effective rate accumulation of interest with no entry in column 9.
3. Amortized Values—Series "G". The value to be entered in the "Amortized Value" column (col. 16) shall be the par value with the interest received and accrued entered in column 9.

*Deductions from Admitted Assets on Account of Interownership of Insurance Companies Stocks*

Stock of the company itself, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock through the ownership by such company of an interest in another firm, corporation or business unit shall not be an admitted asset.

*Valuation of Stock of a Subsidiary Company.*

The stock of a subsidiary (other than an insurance company) of an insurer shall be valued on the basis of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer.

*Determination of Amortized Values of Bonds Received Under Reorganizations.*

The amount entered in the actual cost columns of Parts I and II, of Schedule D, for bonds and other securities received in exchange under reorganization, shall be based on the actual market quotations on such bonds and other securities at the time of acquisition of such bonds and other securities.

### *Valuation of Insurance Company Stocks.*

As indicated in the Resolutions of this Committee insurance company stock values printed in the book should only be used in statements filed with those states whose departmental practices or laws require the use of market value quotations in determining the values allowable on insurance stocks.

### *Bonds Not Eligible for Amortization.*

All such bonds should be carried in Schedule D, Part 1, column 16 "Amortized or Investment Value December 31 of current year," at the Association Values shown in the book of Valuations of Securities and should be so reflected in admitted assets.

### *Mortgages Insured Under the National Housing Act.*

Companies shall be allowed to take credit for the amortized value, on a five year basis, for the premium paid on a mortgage insured under the National Housing Act.

### *Premium Paid on Real Estate Mortgage Loans.*

In the December 31, 1946 statements, the book values of real estate mortgages acquired at a premium may be reported at values reflecting write-offs of such premiums over a three year period from date of acquisition.

## GENERAL

### *Oil Production Loans.*

The Sub-Committee again gave careful consideration to oil production loans held by insurance companies and on the basis of information before the Committee recommends that such loans be not included in the book of Valuations of Securities. That the Executive Secretary to the Committee be instructed to keep a complete record of all such loans and prepare and have available a file on each, including therein a completed questionnaire, engineers reports, legal opinions and all other necessary data for the use of the Sub-Committee. That the Sub-Committee will pass on such loans and upon inquiry the Executive Secretary will submit the findings of the Sub-Committee to the various state insurance department officials and to insurers holding the particular issue.

In determining the allowable values, for statement purposes, of oil production loan and oil production loan bonds the procedure to be followed by the Executive Secretary of the Committee on Valuation of Securities shall be as follows:

1. The Executive Secretary shall first determine:
  - (a) That the loan is secured by a first lien on interests in oil producing properties or leaseholds in the United States on which there are operating oil wells.
  - (b) That production from such wells and from other wells in the same fields is subject to regulatory jurisdiction of a commission or tribunal constituted by law of the state or states in which such wells are situated.
  - (c) That the instruments evidencing the loan provide for the application during the life of the loan of a portion of revenue from recoverable oil which, upon reasonable estimates of such revenue as shown by an engineering or geologic report, shall provide for the payment of the interest and the complete amortization of the loan by maturity.

2. The value of the underlying security (i.e., the oil in ground securing the loan) shall be determined as of the statement date by multiplying the number of barrels of recoverable oil in the ground, as estimated by a licensed oil engineer, by the current market value per barrel of "oil in the ground" in the locality where the wells constituting the underlying security for the loan are situated. The price per barrel of recoverable oil in the ground, used in determining the total security for the loan, shall likewise be predicated on the estimate of a licensed oil engineer.
3. The allowable value of the total unpaid oil production loan or oil production loan bonds shall be the amortized value thereof, but shall not in any instance exceed 60% of the value of the recoverable oil in ground constituting the security for the loan on the statement date, as determined in 2 above.

\* \* \* \*

The Sub-Committee on Valuation of Securities held a meeting in New York City on December 12, 1946 to review the work incident to the preparation, printing and distribution of this book. Decisions required as to amortizability of bonds and market values quoted herein pursuant to the Resolutions adopted on June 12, 1946 and amended on December 11, 1946, were made with the advice of the Executive Secretary and approval of the Sub-Committee.

Values of certain securities payable in foreign currencies are quoted in the appropriate foreign currency and in U. S. Dollars. Values expressed in foreign currencies should be used by insurance companies in their annual statements only if such companies have substantial policy liabilities payable in such currencies and establish an appropriate non-admitted asset on account of the exchange rate at which the assets and liabilities are expressed over the rate of exchange approved herein on any excess of assets over liabilities of such companies expressed in such currencies. The following are the rates of exchange as of December 1, 1946 applicable for use pursuant to this paragraph. (Per U. S. Dollars.)

Argentine Peso .....	\$0.2455	Netherlands Guilder .....	\$0.3790
Australia Pound .....	3.2300	New Zealand Pound .....	3.2450
Belgium Franc .....	0.0228	Norway Krone .....	0.2016
Brazil Cruzeiro .....	0.0546	Peruvian Sol .....	0.1500
British Pound .....	4.0313	Philippine Peso .....	0.5000
Canadian Dollar .....	0.9950	Portugal Escudo .....	0.0405
Chilean Peso .....	0.0350	South Africa Pound .....	4.0350
Columbian Peso .....	0.5850	Spain Peseta .....	0.0913
Cuban Peso .....	1.0012	Swedish Krona .....	0.2785
Denmark Krone .....	0.2087	Swiss Franc .....	0.2340
French Franc (100 Fr.) ..	0.8425	Uruguay Peso .....	0.5650
Indian Rupee .....	0.3032	Venezuelan Bolivar .....	0.3015
Mexican Peso .....	0.2070		

In the case of bonds and stocks marked with the symbol  $\diamond$  there was no information or insufficient information submitted pursuant to the foregoing Resolution to determine that such bonds were amortizable and there was no information as to suitable market values. Any such security should be entered in the annual statements at such market value as the company reporting such security is prepared to justify on the basis of reasonable evidence.

The general procedure in making the valuations has been as follows: A card file is continually kept up to date containing full particulars regarding each bond or stock. The valuations for bonds and stocks which are not



quoted on any of the regular Stock Exchanges or in the leading daily papers or financial periodicals have been determined from replies received to letters of inquiry sent by the Committee, to bond and stock brokers and bankers who are familiar with the particular securities.

The values of the securities of foreign countries not active on the regular stock exchanges of the United States have been determined by quotations on the various foreign stock exchanges.

The values of all bonds, except bonds in default, are given *not including accrued interest* in accordance with the requirements of the uniform statement blank adopted by the National Association of Insurance Commissioners. Bonds and stocks which have been called for redemption early in 1947 are carried in this book, at the call price. All other bonds are carried at the nearest dollar per cent values. Bonds in default as to principal or interest, also Common and Preferred stock have been valued on a flat basis—that is, past due and accrued interest on such bonds and *dividends accrued or declared on stocks* are included in the Association Values. The symbol (F) preceding the valuation in this book for a bond indicates that the Association Value includes interest due and accrued and that additional credit for such interest should not be taken in assets in the statement. The values of stocks in this book are per share, *not per cent*.

Where the quoted prices on securities quoted only at long intervals seemed merely nominal, the figures were adjusted as the facts appeared to warrant. Where there had been no sales or bids it was necessary to depend upon rates of dividends or interest paid, the book value of the securities, the subscription price and in general the financial condition of the issuing corporation and the rate for similar securities.

Under the alphabetical arrangement adopted, each security appears under the name of the corporation actually issuing the same, even though such corporation may be controlled by another. To illustrate: West Shore 4s of 2361 appear under West Shore Railroad, and not under New York Central Railroad, the controlling corporation.

It is important for each insurance company and society to send to the Committee on Valuation of Securities, 61 Broadway, New York 6, N. Y., at the *end* of each of the first three quarters of this year, and at the *end* of each of the other three months of the year schedules with full description of the bonds and stocks acquired during that period. Photographic schedules must be on white paper, the letters and figures black and no smaller than elite.

**ABBREVIATIONS:** Many words have been omitted from and many abbreviated in the descriptions and many serial bonds, issued by the same city or company and bearing the same rate of interest, have been merged in this book in order to expedite the writing of copy for the printer and the type-setting. It is important, however, for insurance companies and societies to continue giving the full names and locations of the issuing cities or companies with the full description of each security, the year and rate of option of the first year of redemption, and to report separately the different serial issues of the same city or company, although bearing the same rate of interest, in order that full information can be entered on the valuation cards. The merging in this book of serials issued by the same city or company was possible this year as many of them have the same value. Another year many similar mergers may be impossible. In some cases the words County, Company, Corporation, Consolidated, Convertible, etc., have been abbreviated in this book, but abbreviations should *not* be used in the company schedules. A list of the abbreviations used in this book will be found on page vii.

The Committee wishes to caution the general public against the use of this

book as a guide for investors, or for the purpose of assisting in the sale or disposal of any securities. Its use by any brokerage firm or security salesman in a prospectus or otherwise, to assist in the sale of any security, will be unauthorized and improper. Its sole purpose is to facilitate the valuation of stocks and bonds held by insurance companies on a fair and uniform basis, and for that purpose it is believed by the Committee to be well adapted. The fact that a certain bond or stock is included in this list does not signify that it is a legal investment for insurance companies under the laws of all states or of any particular state.

ROBERT E. DINEEN, *Chairman,*  
*Committee on Valuation of Securities, National*  
*Association of Insurance Commissioners.*

#### COMPANIES AUTHORIZED TO TRANSACT BUSINESS IN THIS COMMONWEALTH

The following companies, transacting a fire and marine business, have been authorized to transact business in this Commonwealth during the calendar year 1946:

<i>Corporate Name</i>	<i>Location</i>	<i>Capital</i>	<i>Date of Authority</i>
*Dubuque Fire and Marine Insurance Company	Dubuque, Iowa	\$1,150,000	July 1, 1946
Surety Fire Insurance Company	New York, N. Y.	\$1,000,000	January 7, 1946

#### COMPANIES CEASING TO TRANSACT BUSINESS IN THIS COMMONWEALTH

The following companies, transacting a fire and marine business, ceased to be authorized to transact business in this Commonwealth during 1946 for the reasons indicated:

<i>Corporate Name</i>	<i>Location</i>	<i>Capital</i>	<i>Remarks</i>
Central Insurance Company	Baltimore, Md.	\$1,000,000	Reinsured 100% with Philadelphia Fire & Marine Insurance Company January 1, 1946
*Dubuque Fire and Marine Insurance Company	Dubuque, Iowa	\$1,000,000	This company and the National Reserve Insurance Company were consolidated June 30, 1946
Fall River Manufacturers' Mutual Insurance Co.	Fall River, Mass.	—	Merged with Boston Manufacturers' Mutual Insurance Company December 31, 1946
First American Fire Insurance Company	New York, N. Y.	\$1,000,000	Merged with American Eagle Fire Insurance Co. April 1, 1946
Maryland Insurance Co.	New York, N. Y.	\$1,000,000	Merged with Niagara Fire Insurance Company April 1, 1946
*National Reserve Insurance Company	Dubuque, Iowa	\$500,000	This company and Dubuque Fire and Marine Insurance Co. were consolidated June 30, 1946
National Security Insurance Company	Philadelphia, Pa.	\$1,000,000	100% reinsured with Philadelphia Fire & Marine Insurance Company January 1, 1946
Ohio Mutual Insurance Company	Salem, Ohio	—	Withdrew June 30, 1946
Worcester Manufacturers' Mutual Insurance Company	Worcester, Mass.	—	Merged with Boston Manufacturers' Mutual Insurance Company December 31, 1946

\* The Dubuque Fire and Marine Insurance Company, Dubuque, Iowa and the National Reserve Insurance Company, Dubuque, Iowa, consolidated June 30, 1946 and were succeeded by a new corporation, the Dubuque Fire and Marine Insurance Company.

### *Agents and Brokers*

My report relative to the supervision and authorization of agents and brokers is included in Part I of this Report and will not be repeated except by reference in Part II of the Report.

The following report on agents and brokers licensed indicates that the number of individuals presenting themselves for examination has rapidly increased. This is due in a large number to the fact that veterans are returning to civilian life. It is possible that a number of those who are now seeking to enter the insurance business in the production branch, will find the road ahead rather difficult. It appears that a number of returning veterans are taking examinations for brokers' licenses with no immediate prospect for success in that line, but rather because the licenses are issued without cost. The income from licenses will undoubtedly continue to diminish in future years because of the large number of veterans who are entitled to a license without payment of fee.

#### AGENTS AND BROKERS EXAMINED

##### *Agents*

Year	Appeared	Passed	% Passed
1943 .....	1372	936	68.2
1944 .....	1259	929	73.7
1945 .....	1717	1321	76.9
1946 .....	2559	1886	73.7

##### *Brokers*

1943 .....	239	132	55.2
1944 .....	185	98	52.9
1945 .....	475	230	48.4
1946 .....	951	552	58.0

#### 1946 — Brokers' Licenses Issued:

Regular Full Coverage Licenses .....	2693	
Limited Coverage Licenses .....	557	
Partnership Licenses .....	143	
	3393	Paid Licenses
Regular Veterans Full Coverage Licenses .....	1418	
Limited Veterans Coverage Licenses .....	249	
	1667	Unpaid Licenses
Total	5060	

Intelligent supervision of the qualifying and licensing of insurance brokers and agents is highly important if the public is to be protected against the untrustworthy and the incompetent. The number of complaints as a result of violations of law on the part of agents and brokers has diminished a situation which is distinctly in the interest of the public.

#### *Fire and Marine Insurance Companies in Receivership*

*Gloucester Mutual Fishing Insurance Company.* — Louis A. Novins, 19 Milk Street, Boston, was appointed receiver June 18, 1937. Since Mr. Novins entered the service of the U. S. Government he has not returned to this Commonwealth and his records have not been available for verification. A certificate from the Pilgrim Trust Company showed the balance on deposit to the receiver's account as of December 31, 1946 was the same as on December 31, 1945, namely, \$846.79.

The following schedules show the combined results of the Massachusetts fire insurance companies. The figures indicate a healthy growth of these companies. It is interesting to note that the Massachusetts underwriting results are currently in line with the country-wide results.



# EXHIBIT OF ASSETS AND LIABILITIES OF DOMESTIC COMPANIES IN TEN YEAR PERIOD

## FIRE COMPANIES

Year	Number of Companies	Net Premiums Written	Admitted Assets	Liabilities
1937	47	\$47,585,442	\$136,723,110	\$52,272,976
1938	48	45,114,043	141,832,465	53,962,106
1939	47	46,628,251	147,640,154	54,889,334
1940	47	51,496,283	152,351,466	59,399,027
1941	46	59,196,431	159,309,039	67,838,249
1942	42	66,745,067	169,023,420	76,968,645
1943	42	67,622,766	184,108,217	82,269,280
1944	41	71,797,779	195,178,450	89,147,646
1945	41	79,014,212	214,183,830	117,577,327
1946	39	101,068,980	225,683,715	116,812,504

## INSURANCE COVERING FIRE AND ALLIED LINES DURING 1946

### Massachusetts Business for the Ten Years beginning with 1937

Year	Premiums Written	Losses Paid	Loss Ratio (per cent)
1937	\$26,149,823 <sup>1</sup>	\$11,184,290	42.77
1938	24,279,953 <sup>1</sup>	14,245,984	58.67
1939	24,053,976	14,320,861	59.34
1940	25,815,524	14,299,268	55.39
1941	28,849,418	16,112,916	55.85
1942	30,168,280	17,046,539	56.50
1943	29,547,073	13,958,696	47.13
1944	32,423,342	20,221,302	62.37
1945	33,430,926	18,940,233	56.65
1946	42,694,525	20,366,679	47.70
	\$297,412,840	\$160,696,768	54.03

<sup>1</sup> These amounts have been reduced by the estimated dividends payable in the mutual premiums. For 1939 and subsequent years, the amount of dividends paid during the year has been deducted.

## RATIO OF FIRE LOSSES PAID TO PREMIUMS WRITTEN

### MASSACHUSETTS

Year	Premiums Written	Losses Paid	Loss Ratio %
1942	\$31,225,532	\$16,658,818	53.35
1943	31,560,288	13,373,940	42.38
1944	33,798,971	15,564,537	46.05
1945	34,737,947	14,910,891	42.92
1946	42,242,968	17,488,838	41.40

Country-wide figures have fluctuated as shown by the following exhibit:

Year	Premiums Written	Losses Paid	Loss Ratio %
1942	\$592,674,282	\$206,404,642	34.83
1943	629,913,844	248,704,657	39.48
1944	663,423,221	284,377,874	42.87
1945	713,313,009	309,944,056	43.45
1946	922,984,851	359,780,049	38.98

## EXAMINATION OF INSURANCE COMPANIES

As previously reported, the examination of insurance companies domiciled in this Commonwealth doing business in most of the States of the Union, is conducted in accordance with a plan developed by the National Association of Insurance Commissioners. The cost of such examinations made on behalf of other States is levied upon the insurance companies examined.

The laws of the several States differ with respect to the expense to be borne by insurance companies domiciled in the several States. Many of the smaller States depend upon accounting firms or independent examiners paid on a piece-work basis to examine insurance companies domiciled in those States. The more

important insurance States rely upon examiners permanently employed by the State whose salaries are paid out of the general appropriation. When these examiners participate in the examination of companies domiciled in other States, their services are paid for by the insurance company by remittance to the proper authority in the State of domicile, or paid directly to the examiner on a per diem basis. Examiners in this State, who examine out-of-State insurance companies, receive their regular compensation from this Commonwealth and the insurance company being examined reimburses the Commonwealth for the services in accordance with the law. Charges for the services of examiners levied upon insurance companies are regulated by Statute.

#### SPECIAL EXAMINATIONS OF FOREIGN INSURANCE COMPANIES

During 1946 the Department participated in a zone examination of the Emmco Insurance Company of South Bend, Indiana and made special investigations of the American Indemnity Company, Galveston, Texas, and of the American Mutual Reinsurance Company, Chicago, Illinois. These companies were applying for admission to transact fire insurance lines in Massachusetts. The zone examinations of the Emmco Insurance Company was made in conjunction with that of the Emmco Casualty Company and in the following table showing the amounts by which the companies reimbursed the Commonwealth for expenses and salaries of our examiners the two companies are combined.

<i>Company</i>	<i>Expenses</i>	<i>Salaries</i>
American Indemnity Company .....	\$ 277.50	\$ 157.50
American Mutual Reinsurance Company .....	116.37	120.00
Emmco Insurance Co. and Emmco Casualty Ins. Co. ....	608.44	1,150.00
	<u>\$1,002.31</u>	<u>\$1,427.50</u>

#### EXPENSES OF ZONE EXAMINATIONS OF DOMESTIC COMPANIES

The following schedule shows the charges made to the Boston Insurance Company and the Old Colony Insurance Company for services and expenses by C. J. McCann, the examiner from Florida, representing Zone 3, in connection with his participation in the joint examination of the two companies, together with the charges made by this Department to the companies for expense of examining the branch office in Lansing, Michigan.

<i>Services</i>		<i>Hotel etc.</i>		<i>Travel</i>	<i>Total</i>
<i>No. of Days</i>	<i>Rate per Day</i>	<i>Amount</i>	<i>Rate per Day</i>	<i>Amount</i>	
124	\$25.00	\$3,100.00	\$8.00	\$1,192.00	\$4,436.00
Massachusetts examiners at Branch office				280.00	430.00
Total cost to companies					<u>\$4,866.00</u>

The United Mutual Fire Insurance Company was examined jointly with the Liberty Mutual Insurance Company and the total cost is reported in detail in Part II of this report.

The examination of the Allied American Mutual Fire Insurance Company was made in conjunction with those of the American Mutual Liability Insurance Company and the American Policyholders' Insurance Company, completed in 1947. The total cost will be reported in Part II of the 1947 report.

#### EXAMINATION OF FIRE AND MARINE INSURANCE COMPANIES

The following is a record of the examinations made by this Department during the year 1946 of fire and marine insurance companies authorized to transact business in the Commonwealth of Massachusetts:

COMPANY	Location	Examination as of	Examination commenced
<i>Examinations completed in 1946</i>			
<sup>1</sup> Boston Insurance Co. . . . .	Boston	Dec. 31, 1945	May 28, 1946
Cotton and Woolen Manufacturers' Mutual Ins. Co. of N. E. . . . .	Boston	June 30, 1946	Sept. 16, 1946
Groveland Mutual Fire Ins. Co. . . . .	Groveland	Sept. 30, 1946	Oct. 22, 1946
Holyoke Mutual Fire Ins. Co. . . . .	Salem	June 30, 1946	Oct. 28, 1946
Lynn Mutual Fire Ins. Co. . . . .	Lynn	June 30, 1946	Oct. 7, 1946
Middlesex Mutual Fire Ins. Co. . . . .	Concord	June 30, 1946	Oct. 7, 1946
Mutual Fire Assurance Co. . . . .	Springfield	Sept. 30, 1946	Nov. 25, 1946
Newburyport Mutual Fire Ins. Co. . . . .	Newburyport	Dec. 31, 1945	Feb. 19, 1946
Norfolk and Dedham Mutual Fire Ins. Co. . . . .	Dedham	June 30, 1946	Oct. 1, 1946
<sup>1</sup> Old Colony Insurance Co. . . . .	Boston	Dec. 31, 1945	May 27, 1946
<sup>1</sup> United Mutual Fire Ins. Co. . . . .	Boston	Dec. 31, 1944	Oct. 15, 1945
<i>Examinations Pending Dec. 31, 1946</i>			
<sup>1</sup> Allied American Mutual Fire Ins. Co. . . . .	Boston	Dec. 31, 1945	Dec. 31, 1945
Boston Manufacturers' Mutual Fire Ins. Co. . . . .	Boston	June 30, 1946	Sept. 10, 1946
Fall River Manufacturers' Mutual Ins. Co. . . . .	Fall River	June 30, 1946	Sept. 10, 1946
<sup>1</sup> New England Fire Ins. Co. . . . .	Springfield	Dec. 31, 1945	Jan. 2, 1946
<sup>1</sup> Sentinel Fire Ins. Co. . . . .	Springfield	Dec. 31, 1945	Jan. 2, 1946
<sup>1</sup> Springfield Fire and Marine Ins. Co. . . . .	Springfield	Dec. 31, 1945	Jan. 2, 1946
Worcester Manufacturers' Mutual Ins. Co. . . . .	Boston	June 30, 1946	Sept. 10, 1946
<sup>1</sup> Zone Examination			

RULES AND REGULATIONS AUTHORIZED BY THE COMMISSIONER  
OF INSURANCE PERTAINING TO THE ACTIVITIES OF FIRE AND  
MARINE INSURANCE COMPANIES.

(The salutations will indicate the rulings which apply to companies other than fire and marine insurance companies. These rulings will not be repeated in Part II of this Report).

TO ALL FIRE, MARINE, CASUALTY AND SURETY COMPANIES TRANSACTING  
BUSINESS IN THE COMMONWEALTH OF MASSACHUSETTS

In Re: EXTENSION OF WRITING POWERS OF FIRE, MARINE, CASUALTY AND  
SURETY COMPANIES.

Chapter 285 of the Acts of 1946 becomes effective August 9, 1946, and authorizes the extension of writing powers of fire, marine, casualty and surety companies in the following manner:

Fire, marine, casualty and surety companies which have \$1,000,000 surplus to policyholders are authorized, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, to insure and to accept reinsurance of risks of every kind or description wherever located. This law broadens the territory in which domestic insurance companies were authorized to write under the Multiple Lines Law which was enacted in 1945. The 1945 Law restricted the insurance of such risks that companies were permitted to insure thereunder to risks which were located outside of the United States, its territories and possessions.

Life and endowment insurance and contracts for the payment of annuities and pure endowments were excluded from the application of the 1945 Law and are also excluded from Chapter 285 of the Acts of 1946.

Graphically this new Statute permits as follows:

COMPANIES	SURPLUS	AUTHORITY	LOCATION	EXCLUSIONS
Fire	One Million Dollars	To Insure	Anywhere	Life and Endowment
Marine	ing any	and	Anywhere	Policies & Contracts
Surety	includ-	to	Anywhere	for the payment of
Casualty	Guaranty Capital	Accept Reinsurance	Anywhere	annuities and pure endowments



Those company managements intending to take advantage of the underwriting powers authorized by this legislation should address Edmund S. Cogswell, First Deputy Commissioner of Insurance, 100 Nashua Street, Boston, setting forth the additional lines of insurance to be underwritten. If automobile casualty lines are to be written, the communication should be received in this office not later than September 15, 1946.

The company should specify the lines of insurance presently being transacted, together with information concerning additional lines within the scope of the underwriting authority possessed; the amount of surplus to policyholders according to the latest statements; and reference to the pertinent sections of the charter and by-laws showing the authority for contemplated operations or the laws of the domiciliary state which authorized the company to engage in kinds of insurance set forth in Chapter 285 of the Acts of 1946, Commonwealth of Massachusetts.

To expedite matters, we would suggest that each foreign company forward a statement from the Insurance Commissioner of its home state advising that the transaction of the additional lines of insurance authorized by Chapter 285 of the Acts of 1946 will not conflict with the laws of the home state, the charter or the by-laws of the company.

While it may not be a statutory or legal requirement in every case, the Department believes the better procedure would be for each company, mutual or stock, to obtain a vote of authorization from its policyholders or stockholders respectively, as the case may be, to take on these additional lines. By-law provisions should be examined carefully to determine whether or not there are restrictions on writing powers.

Fire and marine companies which propose to take on compulsory automobile insurance are notified that they should join the Massachusetts Automobile Rating and Accident Prevention Bureau, 89 Broad Street, Boston, Mass. Further information regarding Bureau membership may be obtained upon application to R. E. Hatfield, Manager. Under the Massachusetts Motor Vehicle Liability Insurance Law, there are special types of data which must be filed for rate-making purposes with the Bureau. Further details regarding the Statistical Plan will be forwarded to these companies at a later date.

Each policy providing compulsory automobile liability insurance coverage must conform to certain statutory provisions and policies must be filed with the Insurance Department for approval. In the past, the Bureau has submitted a form of policy covering compulsory automobile liability insurance, extra-territorial insurance, guest coverage insurance, and property damage insurance. Standard provisions for a combination form of policy will be made available for use on 1947 risks. The basic form will be forwarded to the companies from the Bureau.

Any casualty companies now authorized to issue compulsory automobile liability insurance policies which desire to add fire and theft coverage will be required to file such policy forms with this Department for approval as the statute provides.

In closing we urge prompt action on the part of any company which desires to take advantage of the Multiple Lines Law.

Very truly yours,

EDMUND S. COGSWELL

*First Deputy and Acting  
Commissioner of Insurance*

## CHAPTER 285

**Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-Six

AN ACT RELATIVE TO MULTIPLE LINE UNDERWRITING, SO CALLED, BY CERTAIN DOMESTIC AND FOREIGN STOCK AND MUTUAL INSURANCE COMPANIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:* Chapter one hundred and seventy-five of the General Laws is hereby amended by striking out section fifty-four B, inserted by section two of chapter three hundred and eighty-four of the acts of nineteen hundred and forty-five, and inserting in place thereof the following section:—

SECTION 54B. Any company authorized to transact the kinds of business specified in any one of the first, second, fourth, sixth or twelfth clauses of section forty-seven may, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, reinsure risks of every kind or description and may write any and all kinds of insurance other than the policies and contracts hereinbefore excluded; provided, that it maintains a surplus to policyholders, including any guaranty capital, of not less than one million dollars.

House of Representatives, May 6, 1946.

Passed to be enacted, FREDERICK V. WILLIS, Speaker.

In Senate, May 7, 1946.

Passed to be enacted, Arthur W. Coolidge, President.

May 10, 1946.

Approved,

/s/ Maurice J. Tobin, Governor.

August 15, 1946

TO ALL FIRE INSURANCE COMPANIES TRANSACTING BUSINESS IN THE COMMONWEALTH OF MASSACHUSETTS.

IN RE: EXTENSION OF WRITING POWERS OF CERTAIN FIRE INSURANCE COMPANIES.

Chapter 471 of the Acts of 1946 becomes effective September 6, 1946, and authorizes the extension of writing powers of fire insurance companies in the following manner:

All fire insurance companies, domestic and foreign, stock and mutual, transacting business in the Commonwealth which have and maintain a surplus to policyholders of at least \$400,000 are authorized, except with respect to household furniture and furnishings in dwelling houses, to insure buildings and building service equipment pertaining thereto, machinery, tools and other equipment used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, for the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding or replacing if such property is totally destroyed.

Graphically this new Statute permits as follows :

FIRE INSURANCE COMPANIES	SURPLUS TO POLICYHOLDERS	ADDITIONAL WRITING POWERS	EXCLUSIONS
Domestic and Foreign Stock and Mutual	At least \$400,000 or with prior approval of the Commissioner, full rein- surance with an admitted company if combined sur- plus of both companies is at least \$800,000.	G.L. Ch. 175 Sect. 47 Clause Seventeenth (Replacement Insurance)	Household furniture and furnish- ings in ings in dwelling houses.

Company managements intending to take advantage of the underwriting powers authorized by Chapter 471 of the Acts of 1946 should address a communication to Edmund S. Cogswell, First Deputy Commissioner of Insurance, 100 Nashua Street, Boston, Massachusetts specifying the lines of insurance presently being transacted, the amount of its surplus to policyholders, according to the company's latest statement, and the pertinent sections of the charter and bylaws of the company conferring the necessary authority for issuing "replacement" policies and also reference to the laws of the domiciliary state if essential.

To expedite matters, it is suggested that each foreign company forward a statement from the Insurance Commissioner of its home state advising that the transaction of the additional coverage will not conflict with the laws of the domiciliary state, the charter or the by-laws of the company.

While it may not be a statutory or legal requirement in every case, the Department believes the better procedure would be for each company, foreign or domestic, mutual or stock, to obtain a vote of authorization from its policyholders or stockholders respectively, as the case may be, to engage in this additional line of business. By-law provisions should be examined carefully to determine whether or not there are restrictions on writing powers.

Fire insurance policies are issued under the authority of Clause First, Section 47 of General Laws, Chapter 175 and the coverage specified in Chapter 471 is issued under Clause Seventeenth of said Section 47. It is necessary, therefore, to meet the requirements of Section 22A of General Laws, Chapter 175 that fire insurance policies, which insure against the hazards specified in Clauses First and Seventeenth, be filed with the Commissioner of Insurance for approval before such policies may be issued.

Each company should forward 2 copies of its proposed policy form promptly to Edmund S. Cogswell, First Deputy Commissioner of Insurance, 100 Nashua Street, Boston, Massachusetts.

After the necessary documents have been checked and examined, and statutory requirements have been complied with, the Department will forward to each company which qualifies an amendment to its certificate of authority or a request that its license be returned to this office for amendment.

Yours Respectfully,

J. E. CURRY, *Counsel*

#### *Statutes Enacted in 1946 Relating to Fire and Marine Insurance*

(Legislation relating to insurance companies other than fire and marine will be found in Part II of this Report)

All of the legislation described herein, except Chapter 508, will apply to casualty insurance companies authorized to write fire insurance under the provisions of Chapter 285 included in this Section. Legislation, which applies to all types of companies covered in Part II of this Report, will be so noted under the head of "Comment" on the legislation.



## (CHAP. 126)

## AN ACT RELATIVE TO THE MAKING BY BANKING AND INSURANCE COMPANIES OF LOANS TO VETERANS OF WORLD WAR II GUARANTEED OR INSURED BY THE ADMINISTRATOR OF VETERANS' AFFAIRS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to make available without delay to qualifying veterans of World War II the additional benefits of the Act of Congress known as the Servicemen's Readjustment Act of 1944 which became available to them on December 28, 1945, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

SECTION 1. Section one of chapter forty-six of the acts of nineteen hundred and forty-five is hereby amended by striking out, in the ninth line, the word "five" and inserting in place thereof the word: — ten, — by inserting after the word "guaranteed" in the twelfth line the words: — or insured, — and by inserting after the word "guaranties", in the sixteenth and seventeenth lines, the words: — or insurance, — so as to read as follows: — *Section 1.* Subject to such regulations as the commissioner of banks deems to be necessary or advisable in respect to trust companies, savings banks, co-operative banks or credit unions, and to such regulations as the commissioner of insurance deems to be necessary or advisable in respect to insurance companies, any trust company, savings bank, co-operative bank, credit union or insurance company organized under the laws of this commonwealth is authorized, for a period ending ten years after the termination of the present states of war between the United States and certain foreign countries, to make such loans and advances of credit to qualified veterans of World War II as are guaranteed or insured in whole or in part by the administrator of veterans' affairs or his successor or successors in such office, under the act of congress known as the Servicemen's Readjustment Act of 1944, or any amendment thereof, and to obtain such guaranties or insurance.

SECTION 2. Section two of said chapter forty-six is hereby amended by inserting after the word "guaranteed" in the tenth line the words: — or insured, — so as to read as follows: — *Section 2.* During the period that the provisions of this act are in force and effect, and, with respect to the obligation of any contract entered into during said period under the provisions of this act, for the life of said obligation, no provision of law limiting the power of a trust company, savings bank, co-operative bank, credit union or insurance company organized under the laws of this commonwealth to make loans shall apply to loans made pursuant to section one of this act, subject to regulations referred to in section one and guaranteed or insured in whole or in part by the administrator of veterans' affairs.

*Approved March 12, 1946.*

*Comment:*

*This Legislation increases the period from five to ten years after the termination of the present States of War for the making of loans and advances of credit to qualified veterans of World War II by trust companies, savings banks, cooperative banks, credit unions and insurance companies. It also permits such loans and advances of credit if they are insured by the Administrator of Veterans' Affairs.*

*The present Statute limited the period within which such loans could be made to five years after the termination of the present States of War and also limited such loans to those that were guaranteed by the Administrator of Veterans' Affairs.*

This Chapter applies to all classes of companies subject to report in Part II of this Report.

## [CHAP. 158]

AN ACT EXEMPTING THE ALL-RISK TYPE OF INSURANCE POLICIES COMMONLY KNOWN AS PERSONAL PROPERTY FLOATER FROM BEING FILED WITH AND APPROVED BY THE COMMISSIONER OF INSURANCE.

*Be it enacted, etc., as follows:*

The first paragraph of section twenty-two A of chapter one hundred and seventy-five of the General Laws, as amended by chapter two hundred and thirty-four of the acts of nineteen hundred and thirty-five, is hereby further amended by adding at the end the following sentence:— The provisions of this paragraph shall not apply to policies authorized by section fifty-four D, — so as to read as follows:— No company shall issue any policy of insurance which provides coverage against loss or damage caused by hazards specified in more than one of the clauses of section forty-seven, until a copy of the form of the policy has been on file for thirty days with the commissioner, unless before the expiration of said thirty days he shall have approved the form of the policy in writing; nor if the commissioner notifies the company in writing within said thirty days that the form of the policy does not comply with the laws of the commonwealth, specifying his reasons therefor, provided that the opinion of the commissioner shall be subject to review by the supreme judicial court; but nothing in the foregoing provisions of this section shall permit the incorporation in the standard fire policy, prescribed by section ninety-nine, or any policy issued under section one hundred and two A, one hundred and eleven A or one hundred and seventeen A or any policy subject to section one hundred and eight, or one hundred and thirteen A, or one hundred and thirty-two, of any coverage not otherwise permitted by this chapter to be incorporated therein. The provisions of this paragraph shall not apply to policies authorized by section fifty-four D.

*Approved March 22, 1946.*

*Comment:*

*This Legislation permits the issuance of Personal Property Floater Policies without having received prior approval of the Commissioner of Insurance on the form thereof.*

*By the enactment of Chapter 384 of the Acts of 1945 fire, marine, surety, liability companies and companies writing burglary insurance were authorized to issue Personal Property Floater Policies covering all risks and insuring against any and all kinds of loss of or damage to, or loss of use of, any individual's personal property other than merchandise. Previously this type of policy could not be issued under the Massachusetts Law because it contained fire insurance and Section 99 of General Laws, Chapter 175 required that policies insuring against fire be issued on a Standard Form specified therein.*

*The Personal Property Floater Policy is essentially a marine insurance form and marine forms are usually not required to be approved by the Insurance Department before their issuance.*

## [CHAP. 186]

AN ACT RELATIVE TO SIGNATURES AND INFORMATION REQUIRED ON RIDERS AND ENDORSEMENTS ON INSURANCE POLICIES AND CONTRACTS.

*Be it enacted, etc., as follows:*

Chapter one hundred and seventy-five of the General Laws is hereby amended by striking out section thirty-three, as appearing in the Tercenary Edition, and inserting in place thereof the following section:— *Section 33.* All such policies or contracts issued by such company shall be signed by its secretary or an assistant secretary, or in their absence by a

temporary secretary, and by its president or a vice-president, or in their absence by two directors. Riders or endorsements, other than riders or endorsements providing for any of the benefits specified in section twenty-four, attached to policies of life or endowment insurance and annuity or pure endowment contracts, and riders or endorsements attached to policies of accident and health insurance, may be signed by one of the aforesaid officers of the company. Riders or endorsements attached to any other policy or contract of insurance need not be signed by any officer of the company if signed by a duly authorized agent or representative of the company; provided, that the name of the company shall be printed, typed, written or stamped on each such rider and the number of the policy or contract to which it is to be attached is inserted therein. A facsimile of the signature of any such officer imprinted on any policy or contract or any rider or endorsement attached thereto, or a facsimile of the signature of any such agent or representative imprinted on any rider or endorsement which under this section he is authorized to sign, shall have the same validity as his written signature.

*Approved April 8, 1946.*

*Comment:*

*This Legislation will facilitate the issuance of rider and endorsement forms which are to be attached to policies issued by domestic insurance companies. This is accomplished by amending Section 33 of General Laws, Chapter 175 in four particulars hereafter enumerated:*

- 1. By permitting such rider forms as are to be attached to policies of life insurance and accident and health insurance to be signed by one officer of the issuing company.*
- 2. By authorizing the issuance of rider forms designed to be attached to all other types of insurance policies except fire policies to be signed by an agent of the company.*
- 3. By allowing the name of the insurance company to be printed, typed, written or stamped on each rider and requiring the number of the policy to which it is to be attached to be inserted therein.*
- 4. By recognizing a facsimile of the name of the insurance agent to be affixed to the form by use of a rubber stamp.*

*Permitting riders which are to be attached to life and accident and health insurance policies to be signed by one officer of the issuing company and authorizing all other rider forms except those used on fire policies to be signed by an agent of the company and sanctioning the use of rider forms on which the name of the insurance company may be printed, typed, written or stamped if the number of the policy to which it is to be attached is inserted therein, this Chapter relaxes the present statutory requirements that all riders and endorsements except those used in connection with fire insurance policies be signed by two officers of the insurance company which issues them and that the name of the insurance company be printed thereon. (See General Laws, Ch. 175, Ss. 18, 33 and 192).*

*The Insurance Law presently permits the use of rider forms which are to be attached to fire insurance policies to be signed by an agent of the company. (See G.L., Ch. 175, Sec. 99, Clause Ninth).*

*At the Hearing held by the Committee on Insurance on the original Petition for this Legislation it was stated by its proponents that there were in use in the Commonwealth by one branch of the insurance business 170 kinds of forms and that these are printed in lots of 500,000 and distributed to 3,000 agents by the 295 companies which issue them.*

*This Department did not favor this Legislation in its present form.*

*This Chapter applies to all insurance companies subject to report in Part II of this Report.*



## [CHAP. 250]

AN ACT TO BROADEN THE LAWS RELATIVE TO THE ISSUANCE OF PARTICIPATING POLICIES BY FOREIGN STOCK INSURANCE COMPANIES AUTHORIZED TO TRANSACT BUSINESS WITHIN THE COMMONWEALTH, BY PROVIDING THAT SUCH COMPANIES MAY ISSUE SUCH POLICIES IF AUTHORIZED TO DO SO BY THE LAWS OF THEIR STATE OR GOVERNMENT.

*Whereas*, The deferred operation of this act would tend to defeat its purpose by depriving the people of this commonwealth of the opportunity of obtaining forthwith from certain insurance companies participating policies of insurance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

Section one hundred and fifty of chapter one hundred and seventy-five of the General Laws, as amended by section two of chapter six hundred and nine of the acts of nineteen hundred and forty-five, is hereby further amended by inserting after the word "charter" in the eleventh line the words:—or by the laws of its state or government,—so as to read as follows:—*Section 150.* Foreign companies, upon complying with the conditions herein set forth applicable to such companies, may be admitted to transact in the commonwealth, as provided in section one hundred and fifty-seven, any kinds of business authorized by this chapter, subject to all general laws now or hereafter in force relative to insurance companies, and subject to all laws applicable to the transaction of such business by foreign companies and their agents; except that no foreign stock company may issue participating policies unless specifically authorized to do so by its charter or by the laws of its state or government; provided, that no provision of law which by its terms applies specifically to domestic life companies shall thereby become applicable to foreign life companies; and provided, further, that the provisions of section eighty-one relative to the contingent mutual liability of members shall not apply to any foreign mutual fire company which had been admitted to transact business in the commonwealth prior to January first, nineteen hundred and twenty-one and was then actually transacting business therein without complying with said provisions.

*Approved April 30, 1946.*

*Comment:*

*This Law amends the present Statute so as to permit foreign stock companies to issue participating policies in Massachusetts if they are authorized by the Laws of their domiciliary states or governments to do so.*

*This is accomplished by amending Section 150 of G.L., Chapter 175 which in its present form permits foreign stock companies to issue participating policies if specifically authorized to do so by their charters.*

*Chapter 250 applies to foreign companies only. The matter of issuing participating policies by domestic insurance companies is spelled out in the present Insurance Law, G.L., Chapter 175, Section 50.*

*At the Public Hearing held by the Committee on Insurance it was pointed out that in some States insurance companies are not issued charters but are organized by Special Legislative Acts and it was claimed that unless Section 150 were amended such companies could not qualify to write participating policies in Massachusetts because they had no charters.*

*The Department favored the change in the Law but made the suggestion that a further amendment be made in Section 150 so as to bring the By-Laws of the insurance company proposing to write participating policies into line either with its charter provisions or with the provisions of the laws of the State or Government under which it was authorized to transact business.*

*The Insurance Committee did not incorporate our suggestion in Chapter 250.*

## [CHAP. 285]

## AN ACT RELATIVE TO MULTIPLE LINE UNDERWRITING, SO CALLED, BY CERTAIN DOMESTIC AND FOREIGN STOCK AND MUTUAL INSURANCE COMPANIES.

*Be it enacted, etc., as follows:*

Chapter one hundred and seventy-five of the General Laws is hereby amended by striking out section fifty-four B, inserted by section two of chapter three hundred and eighty-four of the acts of nineteen hundred and forty-five, and inserting in place thereof the following section:— *Section 54B.* Any company authorized to transact the kinds of business specified in any one of the first, second, fourth, sixth or twelfth clauses of section forty-seven may, except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, reinsure risks of every kind or description and may write any and all kinds of insurance other than the policies and contracts hereinbefore excluded; provided, that it maintains a surplus to policyholders, including any guaranty capital, of not less than one million dollars.

*Approved May 10, 1946.*

*Comment:*

*This Legislation broadens the writing powers of domestic fire, marine, surety, casualty and burglary companies so as to permit such companies to insure risks of all kinds other than life and endowment insurance and contracts for the payment of annuities and pure endowments provided they have a surplus to policyholders of not less than one million dollars.*

*This Chapter amends the Multiple Lines Law which was enacted in 1945 (See General Laws, Chapter 175, Section 54B as inserted by Section 2 of Chapter 384 of the Acts of 1945).*

*Under the present Law (G.L., Ch. 175, S. 54B) a domestic company authorized to write fire, marine, surety, casualty or burglary insurance may reinsure risks of all kinds wherever located except life and endowment insurance and contracts for the payment of annuities and pure endowments and may insure risks of all kinds outside of the United States other than life and endowment insurance and contracts for the payment of annuities and pure endowments provided it has a surplus to policyholders of not less than one million dollars.*

*As enacted in 1945 the present Statute permits Massachusetts companies to write both fire and casualty lines outside the United States, its territories and possessions. Life and endowment insurance and contracts for the payment of annuities and pure endowments were excluded from this Law.*

*Chapter 285 extends the territory in which our domestic companies may write multiple lines by eliminating from the present Statute the words "with respect to risks outside of the United States, its territories and possessions" and by doing so authorizes companies to write multiple lines within the United States.*

*The Legislature of this Commonwealth is to be congratulated for its liberal and progressive attitude in enacting this legislation. The benefits which will flow to the insuring public as a result of this legislation will be abundant as insurance companies take advantage of the permission to write both fire and casualty policies in the one insurance company. The foundation for this legislation was laid by your Commissioner in 1943, when, as President of the National Association of Insurance Commissioners, he sought the assistance of an industry committee, headed by Mr. John A. Diemand, President of the Insurance Company of North America and the following members, Mr. S. Bruce Black, President of the Liberty Mutual Insurance Company; Mr. Kenneth C. Bell, Vice President of the Chase National Bank; Mr. William A. LaBoyteaux of the insurance brokerage firm of Johnson and Higgins; Mr. Arthur F. LaFrentz, President of the American Surety Company of New York; Mr. J. Arthur Nelson, President*

of the New Amsterdam Casualty Company; Mr. William D. O'Gorman, an officer of the insurance agency firm of O'Gorman and Young; Mr. William D. Winter, President of the Atlantic Mutual Insurance Company.

*The constructive and arduous work of this Committee, coupled with the assistance of numerous progressive thinkers in the insurance business, produced for your Honorable Body an abundance of information which influenced your Committee on Insurance to favorably report this legislation. Citizens in Massachusetts will in the immediate future enjoy the advantages which have been for many years enjoyed by the citizens of other States because of the ability of insurance companies to afford most complete insurance protection.*

[CHAP. 299]

AN ACT RELATING TO THE ISSUE OF LICENSES TO PARTNERSHIPS TO ACT AS INSURANCE AGENTS OR BROKERS OR ADJUSTERS OF FIRE LOSSES, AND THE QUALIFICATIONS OF THE MEMBERS OF SUCH PARTNERSHIPS, AND PROVIDING THAT CERTAIN MEMBERS OF SUCH A PARTNERSHIP NEED NOT BE SPECIFIED IN ITS LICENSE.

*Be it enacted, etc., as follows:*

Chapter one hundred and seventy-five of the General Laws is hereby amended by striking out section one hundred and seventy-three, as appearing in the Tercentenary Edition, and inserting in place thereof the following section: — *Section 173.* The licenses described in sections one hundred and sixty-three, one hundred and sixty-six, one hundred and sixty-seven, one hundred and sixty-eight and one hundred and seventy-two may, upon payment of the fees prescribed by section fourteen, be issued to partnerships on the conditions specified in and subject to said sections, except as otherwise provided herein. Each license shall specify by name the partners authorized to act thereunder in the name and on behalf of the partnership, which shall include all the partners except as provided below. Executors, administrators and trustees of the estates of deceased partners who were members of the partnership to be licensed or any predecessor partnership which conducted a business to which the partnership to be licensed has directly or indirectly succeeded and partners or former partners who have retired from active participation in such partnership or any such predecessor partnership or their legal representatives may be partners in the partnership for periods not exceeding in the case of such executors, administrators or trustees ten years from the death of such partner, for the sole purpose of protecting and enforcing any rights of such deceased or retired partner. Such partners shall not be specified in the license and shall not be authorized to act in the name or on behalf of the partnership in respect to any matter requiring a license under any of said sections; provided, that any such non-specified partner may request the continuance with the partnership of the account of any one who was a customer of such partnership or predecessor partnership at the date of such death or retirement. Each partner so to be specified shall file the statement or application required by law, including a written request that the license be issued in the partnership name, and a list of the partners to be specified in the license; partners not to be specified shall not be required to file such statement or application, but there shall be furnished with respect to them such information as the commissioner shall request. Together with said statements or applications, there shall be filed a duplicate original of the written partnership agreement signed by all the partners. The license shall be issued in the partnership name, and may be revoked or suspended as to one or all specified members of the partnership. Minors who are parties to the written articles of partnership may be included in the partnership license, provided that there is one adult member of the firm who is a specified partner. If the partnership is terminated prior to the expiration of the license, the partners shall forthwith give notice thereof to the commissioner, who



shall thereupon without a hearing revoke the license. Each specified partner shall be personally liable to the penalties of the insurance laws for any violation thereof, although the act of violation is done in the name of or on behalf of the partnership. Whoever, being licensed as a specified partner under this section, fails to give notice as required herein of the termination of the partnership, or after the partnership is terminated acts under such license, shall be punished by a fine of not less than twenty nor more than five hundred dollars.

*Comment:*

*This Law permits insurance partnerships to make provision in their partnership agreements so that upon the death or retirement of any of the partners an executor, administrator or trustee of his estate or a retired partner may be a member of the partnership.*

*Under General Laws, Chapter 175, Section 173, previous to the enactment of Chapter 299, it was necessary that each member of an insurance partnership was licensed with the result that upon the death or retirement of a member of an insurance partnership the former partnership must be discontinued because of the statutory requirement that the licensee intends to hold himself out and carry on business in good faith as an insurance agent or insurance broker.*

*This Legislation amends the present law (G.L., Ch. 175, S. 173) so that the legal representative of the estate of a deceased partner or a retired partner may be a member of the partnership but shall not be specified in the license and shall not perform any of the acts usual to a member of a partnership engaged in the insurance business except to request the continuance with the partnership of the account of any person who was a customer of the partnership or its predecessor at the date of the death or retirement of the former member of the firm.*

*In the case of executors, administrators and trustees of the estates of deceased partners there is a ten-year limit on the time during which they may be members of the partnership under this Chapter. These unspecified partners would of course be liable to the penalties of the Insurance Law for any act in connection with an insurance transaction except as authorized above.*

*It is not the intention of the Department to encourage corporations including banks and lending institutions to serve in the capacity of unspecified partners in insurance partnerships in cases where a member of a partnership has deceased and appointed said institution as his executor, administrator or trustee.*

*We have commented at length on this legislation in order that the Legislature may realize that the administration of this new law will be conservative and in accordance with the legislative intent that the business of retired or deceased partners be conserved for the benefit of those who have a right to receive such benefits.*

[CHAP. 387]

AN ACT RELATIVE TO THE TAXATION OF MARINE, OR FIRE AND MARINE, INSURANCE COMPANIES.

*Be it enacted, etc., as follows:*

SECTION 1. Section twenty-two of chapter sixty-three of the General Laws, as most recently amended by section one of chapter seven hundred and twenty-one of the acts of nineteen hundred and forty-five, is hereby further amended by inserting after the word "twenty" in the fifth line the words: — and marine, or fire and marine, insurance companies with respect to business taxable under section twenty-nine A, — so as to read as follows: — Section 22. Every domestic insurance company coming within the scope of the definition of a domestic company in section one of chapter one hundred and seventy-five, except life insurance companies with respect to business taxable under section twenty and marine, or fire and marine, insurance

companies with respect to business taxable under section twenty-nine A, shall annually pay an excise of one per cent upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made by such company on policyholders during the preceding calendar year, exclusive of reinsurance; but such premiums and assessments for policies written or renewed for insurance, exclusive of reinsurance, of property or interests in other states or countries where a tax is actually paid by such company, or its agents, shall not be so taxed.

SECTION 2. Section twenty-three of said chapter sixty-three, as most recently amended by section two of said chapter seven hundred and twenty-one, is hereby further amended by inserting after the word "twenty-one" in the fifth line the words: — and marine, or fire and marine, insurance companies with respect to business taxable under section twenty-nine A, — so as to read as follows: — *Section 23.* Every foreign insurance company coming within the scope of the definition of a foreign company in section one of chapter one hundred and seventy-five, except life insurance companies with respect to business taxable under sections twenty and twenty-one and marine, or fire and marine, insurance companies with respect to business taxable under section twenty-nine A, shall annually pay an excise upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made during the preceding calendar year for insurance of property or interests in this commonwealth, or which are subjects of insurance by contracts issued through companies or agents therein, exclusive of reinsurance, at the rate of two per cent but not less in amount than would be imposed by the laws of the state or country under which such company is organized upon a like insurance company incorporated in this commonwealth, or upon its agents, if doing business to the same extent in such state or country.

SECTION 3. Section twenty-six of said chapter sixty-three, as appearing in the Tercentenary Edition, is hereby amended by striking out, in the fifth line, the words "twenty and twenty-five" and inserting in place thereof the words: — twenty, twenty-five and twenty-nine A, — so as to read as follows: — *Section 26.* The books, papers and accounts of every insurance company and of its agents shall be open at all times to inspection and examination by the commissioner and the commissioner of insurance, or their duly authorized representatives, for the purpose of verifying the accuracy of the returns made under sections twenty, twenty-five and twenty-nine A.

SECTION 4. Section twenty-seven of said chapter sixty-three, as so appearing, is hereby amended by striking out, in the second and in the twelfth lines, the words "twenty or twenty-five" and inserting in place thereof, in each instance, the words: — twenty, twenty-five or twenty-nine A, — so as to read as follows: — *Section 27.* Every insurance company neglecting to make the return required by section twenty, twenty-five or twenty-nine A shall forfeit twenty-five dollars for every day during which such neglect continues. If any company neglects to make such return for ten days after notice thereof addressed to it has been deposited in the post office, postage prepaid, it shall further forfeit five hundred dollars, and upon an information by the attorney general at the relation of the commissioner it may be restrained from the further transaction of its business in this commonwealth until it has made such return; but such penalties shall not be incurred if it is proved that the return was duly made and deposited in the post office, postage prepaid, properly directed to the commissioner, and that there was no neglect. If any return required by said section twenty, twenty-five or twenty-nine A contains a false statement which is known, or by the exercise of reasonable care might have been known, to the officers making it, to be false, such company shall be liable for the amount of tax thereby lost to the commonwealth, and each offending officer shall forfeit not less than five hundred nor more than five thousand dollars.

SECTION 5. Section twenty-eight of said chapter sixty-three, as most recently amended by chapter three hundred and forty-two of the acts of nineteen hundred and forty-five, is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the two following paragraphs:—

The commissioner shall assess upon all insurance companies liable to taxation under sections twenty-two, twenty-three and twenty-nine A the excise thereby imposed, and shall forthwith upon making such assessment give to every such company notice of the amount thereof. Such excise shall become due and payable to the commissioner thirty days after the date of such notice but not later than June first.

Liability for the taxes imposed by sections twenty to twenty-three, inclusive, and twenty-nine A, or by sections two and three of chapter five hundred and thirty-one of the acts of nineteen hundred and forty-three shall be incurred by reason of the transaction of business during the calendar year preceding that in which the assessment provided for in this section is made.

SECTION 6. Said chapter sixty-three is hereby further amended by inserting after section twenty-nine, as appearing in the Tercentenary Edition, the following section:—*Section 29A.* (1) Every marine, or fire and marine, insurance company authorized to transact business in the commonwealth, coming within the scope of the definition of a domestic company or of a foreign company in section one of chapter one hundred and seventy-five, shall, with respect to all insurance written within the commonwealth upon hulls, freights, or disbursements, or upon goods, wares, merchandise and all other personal property and interests therein, in course of exportation from any country, importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, any portion of which exportation, importation, transportation, navigation, transit, or shipment is upon any ocean, and upon the property while being prepared for and while awaiting shipment, and during any delays, storage, trans shipment or reshipment incident thereto, including war risks and marine builders risks, pay a tax of five per cent on its taxable underwriting profit, ascertained as hereinafter provided, from such insurance written within the commonwealth.

(2) The taxable underwriting profit on such marine insurance written within the commonwealth, as determined in subsection (6), shall be that proportion of the total underwriting profit of such company from such marine insurance written within the United States for the taxable period which the amount of net premiums of such company from such marine insurance written within the commonwealth for the taxable period bears to the amount of net premiums of such company from such marine insurance written within the United States for the taxable period.

(3) The underwriting profit of such company on such insurance written within the United States shall be determined by deducting from the net earned premiums on such marine insurance written within the United States during the taxable year, meaning thereby the calendar year next preceding the date on which such tax is due, the following items:—

(a) Net losses incurred, meaning thereby gross losses incurred during such calendar year on such marine insurance written within the United States, less reinsurance claims collected or collectible and less all net salvages and all recoveries collected or collectible from any source during such calendar year on such losses and on losses deducted under this section in any prior year.

(b) Net expenses incurred, meaning thereby expenses incurred during such calendar year on such marine insurance written within the United States, including all state and federal taxes in connection therewith; but in



no event shall the aggregate amount of such net expenses deducted exceed forty per cent of the net premiums on such marine insurance ascertained as hereinafter provided; and

(c) Net dividends paid or credited to policyholders or insureds during such calendar year on such marine insurance written within the United States.

(4) In determining the amount of the tax payable under subsection (1), net earned premiums on such marine insurance written within the United States during the taxable year shall be arrived at as follows: From gross premiums written on such marine insurance during the taxable year there shall be deducted any and all return premiums, premiums on policies not taken, premiums paid for reinsurance and net unearned premiums on all such unexpired risks at the end of the taxable year; and there shall be added to such amount net unearned premiums on such unexpired risks at the end of the calendar year next preceding the taxable year.

(5) In determining the amount of such tax, net expenses incurred shall be determined as the sum of the following:

(a) Specific expenses incurred directly and specifically in connection with such marine insurance, including all commissions, agency expenses, taxes, licenses, fees, and loss-adjustment expenses, less recoveries or reimbursements on account of or in connection with such commissions or other expenses collected or collectible because of reinsurance or from any other source; and

(b) General expenses incurred on such marine insurance, consisting of that portion of general or overhead expenses incurred in connection with such insurance which the net premiums on such marine insurance written by such company during the taxable year bear to the total net premiums from all classes of insurance written by it during the taxable year. Within the meaning of this paragraph, general or overhead expenses shall include salaries of officers and employees, printing and stationery, all taxes imposed by the commonwealth and the United States, except as included in paragraph (a) of this subsection, and all other expenses of such company not included in said paragraph (a), after deducting expenses and taxes specifically chargeable to any or all other classes of insurance.

(6) In determining the amount of the tax payable under subsection (1), the taxable underwriting profit, if any, of such company on all such marine insurance written within the commonwealth shall be ascertained as follows:—

(a) In the case of every such company which has written any such business within the commonwealth during three calendar years immediately preceding the year in which such taxes are payable, the taxable underwriting profit shall be determined by adding or subtracting, as the case may be, the underwriting profit or loss on all such insurance written within the United States, ascertained as hereinbefore provided, for each of such three years, and dividing by three.

(b) In the case of every such company other than as specified in paragraph (a) of this subsection, such taxable underwriting profit, if any, shall be the underwriting profit, if any, on such marine insurance business written within the commonwealth during the taxable year, ascertained as hereinbefore provided; but after such company has written such marine insurance business within the commonwealth during three calendar years, an adjustment shall be made on the three year average basis by ascertaining the amount of tax payable in accordance with paragraph (a) of this subsection. Any tax credit resulting from such adjustment may be refunded without interest upon written application at the time of filing the required return, or

applied toward the payment of any tax due or which may thereafter become due.

(7) Every insurance company liable to taxation under this section shall annually, on or before the first day of April, make a return to the commissioner, on oath of its secretary or other officer having knowledge of the facts, setting forth the underwriting profit or loss, ascertained as hereinbefore provided, for the taxable year or years required by the pertinent paragraph of subsection (6), in such form and containing such other information as the commissioner may deem necessary for the determination of the excise imposed by this section. For cause, the commissioner may extend the time within which any such statement may be filed but not to a date later than May first.

(8) Every company liable to taxation under this section, when it ceases to write any such marine insurance within the commonwealth, or discontinues business therein, shall thereupon notify the commissioner in writing within five days and shall within sixty days thereafter file with the commissioner a report of all such marine premiums written from January first of the year of such cessation to and including the date upon which the company ceased to do business in the commonwealth, and an excise of one tenth of one per cent on such net marine premiums shall be immediately due and payable, and shall be in lieu of the excise provided by this section for such period.

(9) The tax provided for in this section shall apply to the business of the year ending December thirty-first, nineteen hundred and forty-seven, and subsequent years.

SECTION 7. This act shall take effect on January first, nineteen hundred and forty-eight.

*Comment:*

*Chapter 387 changes the method of computing taxes payable to the Commonwealth by marine or fire and marine insurance companies transacting ocean marine business.*

*Under the present Law (General Laws, Chapter 63, Sections 22 and 23) domestic and foreign companies transacting ocean marine business pay respectively a one per cent and two per cent premium tax.*

*Chapter 387 changes the basis on which the tax on ocean marine business is computed from one per cent and two per cent of the net premiums to a tax of five per cent on its taxable underwriting profit which is to be determined by a complex formula included in the Statute.*

*Similar legislation was before the 1945 General Court, being at that time House Bill No. 2120. This Department did not favor the principles of House Bill No. 2120 and the Bill was vetoed by the Governor. See copy of Governor's Veto Message, Senate Bill No. 626 of 1945.*

*This Department opposed the enactment of Chapter 387 on the ground that a premium tax is easier to compute and less likely to involve controversy than the underwriting profit tax which is substituted for the premium tax by this bill. We are of the further opinion that there will be years in which no tax will be paid by marine insurance companies; whereas that situation could not possibly occur under the premium tax method. We believe there is a further reason for objecting to a diminution of taxes payable by fire and marine insurance companies, namely, the demands of such companies for further services at the hands of the State in the matter of rate regulation. If this tax principle is extended, it will be costly to the Commonwealth.*

## [CHAP. 471]

AN ACT RELATING TO INSURANCE AGAINST EXPENSES ACTUALLY INCURRED IN REPAIRING OR REPLACING PROPERTY DAMAGED OR DESTROYED BY FIRE OR OTHER CAUSES AND RELATING TO INSURANCE AGAINST THE COST OF ADDITIONAL OR OTHER CONSTRUCTION NECESSARY TO COMPLY WITH APPLICABLE LAWS, ORDINANCES AND BY-LAWS.

*Be it enacted, etc., as follows:*

SECTION 1. Section forty-seven of chapter one hundred and seventy-five of the General Laws, as amended, is hereby further amended by adding at the end the following clause:—

Seventeenth, To insure buildings and building service equipment pertaining thereto and a part thereof, and machinery, tools, and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, except household furniture and furnishings in dwelling houses, for the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding or replacing on the premises described in the policy, or some other location within the commonwealth mutually agreed upon between the insurer and the insured, with new materials of like size, kind and quality, such property as has been damaged or destroyed by fire or other peril insured against, if repaired, rebuilt or replaced within the commonwealth within not exceeding two years from date of loss or such further time as may be agreed to between the insurer and the insured; and also, to insure against the cost of demolition or reconstruction, or both, of any portion of the insured premises which has not suffered damage and the additional cost of repair or reconstruction, or both, of portions of the insured premises which have suffered damage, necessary to comply with applicable laws, ordinances or by-laws.

SECTION 2. Section forty-eight of said chapter one hundred and seventy-five, as appearing in the Tercentenary Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—Ten or more persons residents of this commonwealth may form a stock company (a) to transact the business set forth in any one of the clauses set forth in section forty-seven, excepting the third or seventeenth, (b) to transact the business set forth in the first and eighth clauses thereof, (c) to transact the business set forth in the first and second clauses thereof, in the first and seventeenth clauses thereof, in the first, second and eighth clauses thereof, or in the first, second, eighth and seventeenth clauses thereof, (d) to transact the business set forth in any two or more of the fourth, fifth, sixth, seventh, eighth, ninth, tenth, twelfth and thirteenth clauses thereof, or (e) to transact the business set forth in the sixth and sixteenth clauses thereof.

SECTION 3. Said section forty-eight is hereby further amended by striking out, in the twenty-second and twenty-third lines, the words "Under the first and second clauses, and under the first, second and eighth clauses, not less than four hundred thousand dollars" and inserting in place thereof the following paragraph:—

Under the first and second clauses, under the first and seventeenth clauses, under the first, second and eighth clauses, and under the first, second, eighth and seventeenth clauses, not less than four hundred thousand dollars.

SECTION 4. Said chapter one hundred and seventy-five is hereby further amended by striking out section forty-eight A, as so appearing, and inserting in place thereof the following section:—*Section 48A.* Ten or more persons, residents of this commonwealth, may form a mutual company, (a) to transact the business set forth in any one of the clauses of section forty-seven, except the eleventh, fourteenth, fifteenth or seventeenth; (b) to transact the business set forth in the first and third, the first and eighth, the third



and eighth, or in the first, third and eighth clauses; (c) to transact the business set forth in the first and second clauses, in the first and seventeenth clauses, in the first, second and eighth clauses, or in the first, second, eighth and seventeenth clauses; (d) to transact the business set forth in any two or more of the fourth, fifth, sixth, seventh, eighth, ninth, tenth, twelfth and thirteenth clauses thereof; or (e) to transact the business set forth in the sixth and sixteenth clauses thereof, except subdivision (e) of said sixth clause.

SECTION 5. Section fifty-one of said chapter one hundred and seventy-five, as so appearing, is hereby amended by striking out clause (a) and inserting in place thereof the following clause:—

(a) The first and second, if authorized to transact either, or the seventeenth, if authorized to transact any one or more of the first, second and eighth clauses, provided it has a paid-up capital of not less than four hundred thousand dollars, or the first and second excepting ocean marine insurance, if authorized to transact either, provided it has a paid-up capital of not less than three hundred thousand dollars, or subdivision (d) of the second clause, if authorized to transact the first.

SECTION 6. Section fifty-four of said chapter one hundred and seventy-five, as amended, is hereby further amended by inserting after clause (a) the following clause:—

(a $\frac{1}{2}$ ) The seventeenth, if authorized to transact any one or more of the first, second and eighth clauses, provided that it has net cash assets over all liabilities, computed on the basis fixed by sections ten and eleven, of not less than four hundred thousand dollars and provided further that if a company does not have net cash assets to the said amount, it may transact business under the seventeenth clause, with the approval of the commissioner, if all risks insured by it under said clause are fully reinsured with a company authorized to transact business in the commonwealth whose net cash assets, so computed, together with such assets of the ceding company, aggregate not less than eight hundred thousand dollars.

SECTION 7. Said chapter one hundred and seventy-five is hereby further amended by inserting after section ninety-six the following new section:—*Section 96A.* Neither insurance authorized under the provisions of clause seventeenth of section forty-seven nor insurance against loss of use or occupancy shall be subject to the limitations as to value contained in sections ninety-five, ninety-six, ninety-nine, one hundred and two A and one hundred and two B.

#### *Comment:*

*This Law authorizes domestic insurance companies to insure buildings and building service equipment pertaining thereto and a part thereof, and machinery, tools, and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, except household furniture and furnishings in dwelling houses, for the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding or replacing if totally destroyed.*

*Previous to the enactment of Chapter 471, under General Laws, Chapter 175, Sections 95, 96 and 99, the highest amount for which buildings may be insured in the Commonwealth in case of total loss is for actual value at the time loss occurs.*

*Chapter 471 permits the issuance of a form of coverage for which there is a demand. This is accomplished under proper financial safeguards and with a requirement that the policyholder rebuild within two years.*

*This Legislation authorizes a stock company with \$400,000 capital and mutual companies with \$400,000 surplus to engage in this type of business and permits mutual companies which have less than \$400,000 surplus and which obtain the Commissioner's approval to write this coverage if the risks are wholly reinsured with a company whose surplus when added to that of the ceding company aggregates at least \$800,000.*

*This Law increases the writing powers of insurance companies in case of total loss only. Companies are presently permitted to insure against the increased cost of reconstruction in case of partial loss.*

*This type of insurance is particularly advantageous for the protection of lessees under leases which require them to repair or replace the leased property in the event of fire at their own expense. It will therefore readily be seen that unless the lessee can purchase insurance protection to take care of his possible liability he is left in a position where he must contribute some of his own funds for replacement in the event of fire.*

[CHAP. 508]

AN ACT FURTHER REGULATING THE EFFECT UPON THE TAXATION OF INSURANCE COMPANIES OF THE REINSURANCE OF RISKS THEREBY.

*Be it enacted, etc., as follows:*

Section twenty of chapter one hundred and seventy-five of the General Laws, as amended by chapter three hundred and forty-three of the acts of nineteen hundred and forty-one, is hereby further amended by striking out, in the sixth and seventh lines, as appearing in the Tercentenary Edition, the words "reduce the taxes to be paid by the ceding company, nor, if a life company, shall it" — and in the eighth line, as so appearing, by striking out the word "it" and inserting in place thereof the words: — a life company, — so that the first sentence of the second paragraph will read as follows: — Such reinsurance shall not reduce the reserve to be charged to a life company, unless effected with a company authorized to issue policies in the commonwealth covering risks of the same kinds as those reinsured, or with a company incorporated or formed to reinsure and authorized to reinsure in the commonwealth risks of the same kinds as those reinsured.

*Approved June 11, 1946.*

*Comment:*

*This Legislation corrects Section 20 of General Laws, Chapter 175 to bring this Section as corrected into conformity with the provisions of Chapter 721 of the Acts of 1945. This Chapter amended Sections 22, 23 and 24 of General Laws, Chapter 63 pertaining to the taxation of domestic, fire, marine and other insurance companies. Chapter 721 of the Acts of 1945 changed the method by which domestic insurance companies other than life insurance companies were assessed for premium taxes in that it requires a company to pay the full tax without any deduction for reinsurance. Previous to the enactment of Chapter 721 of the Acts of 1945, a company which reinsured a portion of its risks was allowed a deduction on its tax assessment for such reinsurance.*

*On account of the change which was made in the tax base as outlined above, it is necessary that an amendment be made in the First Sentence of the Second Paragraph of Section 20 of G.L., Chapter 175, so that its provisions will be brought into conformity with the 1945 amendment in the Tax Law.*

HOUSE NO. 50  
THE COMMONWEALTH OF MASSACHUSETTS

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DEPARTMENT OF BANKING AND INSURANCE,  
DIVISION OF INSURANCE,  
100 NASHUA STREET, BOSTON, DECEMBER 3, 1946.

*To the General Court of the Commonwealth of Massachusetts.*

In compliance with the provisions of section 33 of chapter 30 of the General Laws, as amended, a copy of the recommendations for legislation to be contained in the annual report of the Commissioner of Insurance (Pub. Doc. No. 9) is submitted herewith, together with draft of bill embodying the legislation recommended. This draft has been submitted to the Counsel for the House, as required by law.

CHARLES F. J. HARRINGTON,  
*Commissioner of Insurance.*

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RECOMMENDATIONS — RECODIFICATION OF INSURANCE LAWS.

Your Commissioner of Insurance participated in the deliberations of the Subcommittee of the Executive Committee of the National Association of Insurance Commissioners which commenced immediately following the decision of the Supreme Court of the United States handed down on June 5, 1944, in the South-Eastern Underwriters' Case, the effect of which was to make applicable to the insurance business a series of federal acts which in many instances are in direct conflict with the provisions of our state laws and which further subjected the insurance business and state regulation to a long line of judicial decisions interpreting the commerce clause of the Federal Constitution and other federal regulatory acts enacted pursuant thereto.

Acting under authority granted by the National Association of Insurance Commissioners, the Executive Committee submitted to the Congress of the United States a legislative proposal in November, 1944. An examination of United States Public Law 15 signed by the President on March 9, 1945, will indicate the extent to which the Commissioners' legislative proposal, prepared in cooperation with the insurance industry, forms the basis of United States Public Law 15. One of the main purposes of the legislative proposal was to assure the continued application of state laws regulating and taxing the business of insurance, and further to indicate that future acts of Congress applying to the business of insurance would specifically so provide. This course of action was decided upon after many hearings in many parts of the United States. Accompanying the legislative proposal was the following statement of the subcommittee:

DECLARATION IN FAVOR OF STATE REGULATION.

As a result of its deliberations the subcommittee found an overwhelming sentiment for the retention of state regulation. The arguments advanced in its favor were compelling. Chief and foremost among them was the fact — undisputed — that because the states are closer to the people than is the nation, they are better able to deal with insurance problems arising in their several jurisdictions.



Second, and of equal importance, is the fact that the insurance business does not lend itself to a rigid, centralized control. Flexibility is of the essence. Regulation must be geared to regional and sectional needs.

A third and equally persuasive reason, although one which flows from the first two, is the record of the business in this country, extending back over one hundred years, and the service which it has rendered to the public. No industry could have thrived to the extent that the insurance industry has, nor could the public have gained as it has, if either the philosophy or administration of state regulation had been unsound.

To accomplish the foregoing proposition the recommendations of the Insurance Commissioner submitted to the 1946 Legislature provided for a special commission to revise, recodify and recommend the necessary changes, additions or amendments to the insurance laws and to the laws relating to the taxation of insurance companies. Our recommendation in this respect was embodied in House, No. 50.

This recommendation received the support of a number of Massachusetts insurance companies and was favorably reported to the Senate by the insurance committee without dissent. The bill passed the Senate and received favorable consideration in the House of Representatives but failed of final passage. We are encouraged by the support which your Honorable Body accorded this constructive recommendation. We are satisfied that an increasing number of citizens who are affected by the insurance laws are anxious that these laws be revised and recodified. We urge the members of the Legislature to take the necessary steps to provide us with a modern, improved and well-arranged insurance code.

During the months which have intervened since our last recommendation to your Honorable Body we have devoted considerable time to the consideration and study of the problems arising from the impact of the decision in the South-Eastern Underwriters' Case (322 U. S. 533) and the enactment by the Congress of United States Public Law 15. We have likewise conferred with the insurance supervisors of other States and with leaders of the insurance industry concerning the opportunity afforded the States by the Congress to adjust their laws to conform to the decision of the court that insurance is interstate commerce. We have striven to be constructive and helpful to the Commission appointed to consider the necessary changes, additions or amendments to the insurance laws and the laws relating to the taxation of insurance companies. (See the Journal of the Senate under date of January 22, 1946.)

We are satisfied that the Commission will produce substantial and constructive suggestions requiring the amendment or modification of existing sections of the law and also the incorporation of new sections in order that the continued regulation and taxation of the business of insurance in the public interest may be accomplished.

We again call attention to the fact that the insurance laws of this Commonwealth have not undergone a complete revision at one time since 1907. We submit that in view of the opportunity afforded the States by the federal government to continue to regulate and tax the business of insurance we are obliged to assume the responsibility for the improvement and rearrangement of our laws, to the end that a review by the Congressional Committee will justify the confidence in state regulation of insurance indicated by the Congress when it enacted United States Public Law 15. The accomplishment of this task by the State of Washington in a period of a little more than one year justifies the conclusion that the task, while a difficult one, can be accomplished in a reasonable length of time provided an opportunity is available for specialized attention to the work.

During the past two years the insurance industry has urged upon the Legislature the necessity for state rate regulatory legislation in order that rate making in the public interest by companies acting in concert through rating bureaus might be continued without conflict with the Sherman Act.

We have no disposition to underestimate the importance of some form of rate regulatory legislation which will recognize that "Congress was willing to permit cooperative action, including price fixing, in the insurance business on a state level, providing such activity was regulated and at the same time was interested in seeing to it that reasonable competition was preserved." The subject of rate regulation has been widely explored by the Special Recess Commission. As a matter of fact, a number of rate regulatory proposals are presently receiving the consideration of the Commission. Hence we shall give consideration to other problems which must be solved if the most complete state supervision of insurance is to be retained.

Most of the problems flowing from the application of the Sherman Act will be met by the passage of a satisfactory rate regulatory law including provisions permitting certain related co-operative action. Material on this matter has already been placed in the hands of the Special Recess Commission.

The Committee on Federal Legislation of the National Association of Insurance Commissioners has made a final recommendation with respect to the treatment of the Robinson-Patman Act at a state level. We have at this time given preliminary consideration to the action which should be undertaken by the State in order to eliminate conflict with the Federal Trade Commission Act and the committee is still considering a memorandum submitted with respect to the Clayton Act. Under normal circumstances we would have preferred to await the final report of the Committee on Federal Legislation of the National Association of Insurance Commissioners before making recommendations to our Legislature. Since the statute requires that department heads submit legislative proposals not later than the first Wednesday in December, we shall quote from the report of the Committee on Federal Legislation and submit for the consideration of the Legislature the alternative proposals presently receiving the consideration of that committee, with the understanding that, following action by the National Association of Insurance Commissioners, we may deem it advisable to substitute further legislative proposals which will more effectively or satisfactorily deal with the subject.

Under date of October 26, 1946, the Committee on Federal Legislation of the National Association of Insurance Commissioners completed a report which was signed by —

Charles F. J. Harrington, Massachusetts, *Chairman*.

Robert E. Dineen, New York.

Newell R. Johnson, Minnesota.

James M. McCormack, Tennessee.

Seth B. Thompson, Oregon.

J. Edwin Larson, Florida.

Maynard Garrison, California.

This report, so far as pertaining to this discussion, reads as follows:

The subjects considered by this committee were as follows:

1. Treatment of the Robinson-Patman Act on a state level.
2. Treatment of the Federal Trade Commission Act on a state level.
3. Proposals for the regulation of the accident and health business.

The committee was also asked to consider the regulation of the title insurance business, but the pressure of other business prevented that particular problem from being considered at this meeting. Other aspects of the rating problem were likewise not considered, for the same reason.

## ROBINSON-PATMAN ACT.

The committee had before it and gave consideration to the reports of the Robinson-Patman Act Subcommittee of the All-Industry Committee dated September 19, 1945, October 19, 1945, and September 7, 1946. Copies of these reports are attached hereto, made a part hereof and marked Exhibits A, B and C. These reports were unanimously approved by the All-Industry Committee and for the purpose of this report are treated as the reports of the All-Industry Committee.

The committee voted unanimously to accept these reports. It was the opinion of the committee that the suggested legislative procedure provided an adequate and satisfactory method of dealing with the Robinson-Patman Act on a state level, and the committee recommends for use in the States the proposals therein contained.

## FEDERAL TRADE COMMISSION ACT.

Numerous proposals as to how this problem should be treated were considered. In general and in brief, the following proposals were submitted to your Committee:

1. No legislation on a state level should be enacted, and the regulation of unfair practices should be left to the Federal Trade Commission.

2. Each State should enact a so-called "baby federal trade commission act" paralleling the language, in general, of the Federal Trade Commission Act.

3. Each State should enact a "baby federal trade commission act", with the exception that all prohibited practices should be promulgated by the Commissioner in the form of rules, following notice and hearing to all interested parties. This suggested modification is along the lines of the procedure contained in the Federal Administrative Procedure Act (Public Law 404, 79th Congress).

4. Each State should pass an act giving the Commissioner the power to restrain and enjoin unfair practices by the use of cease and desist orders. To the extent possible, the Legislature should set forth in definitive form the prohibited acts or practices. To the extent that it was not possible for the Legislature to do this, the Commissioner should be entrusted with the power to define the additional prohibited acts and practices under the procedure set forth in plan 3 above.

5. The Commissioner should be entrusted with the power to issue cease and desist orders in connection with unfair acts and practices. However, all unfair acts and practices are defined by rules promulgated by the Commissioner following notice and hearing, along the lines of the Federal Administrative Procedure Act. This is a so-called "baby federal trade commission act." It becomes a definitive plan, in effect, upon promulgation of rules by the Commissioner.

6. Under this plan all unfair acts and practices are prohibited. The statute itself contains a list of prohibited acts or practices. Since this list is not all-inclusive, the Commissioner is empowered in all other cases to conduct hearings as to whether or not an act or practice complained of constitutes an unfair act or practice. If it does, the Commissioner makes a report in writing, stating his findings. Thereafter the Commissioner may, through the Attorney General, file a petition in court to restrain the violation. If the court adopts the Commissioner's contention, a cease and desist order is issued by the court. The Commissioner has no power under this proposal to do more than make a finding as to whether or not an act or practice is unfair,



and he may not issue the cease and desist order himself. With the exception of those prohibited acts or practices specifically enumerated in the statute, the actual definition of an unfair act or practice is by judicial rather than administrative determination, and the issuance of all cease and desist orders, whether or not the practices are enumerated, is entrusted to the courts.

7. This plan is similar to plan 6, except that the authority to determine the unenumerated unfair practices and to issue cease and desist orders in all cases is entrusted in the first instance to the Commissioner rather than to the courts.

A refinement of plans 6 and 7 contemplated that the Commissioner should have the power to issue cease and desist orders as to the acts and practices specifically enumerated in the act, but not as to those of which he was the arbitrator.

All of the plans considered contained provisions for judicial review.

The merits and demerits of these plans were exhaustively explored and discussed by members of your Committee and by other interested parties.

Your Committee was unanimous upon the proposition that the regulation of unfair acts and practices should not be left to the Federal Trade Commission in Washington. Its views on this subject have been outlined in previous reports and in the supporting memoranda of the Commissioner's legislative proposal submitted to the Congress in 1944.

The committee looked with favor upon two alternative methods of dealing with this problem, copies of which are attached and marked Exhibits D and E. In both alternatives unfair methods of competition and unfair or deceptive acts and practices are prohibited. The general idea of these two proposals is based upon the so-called definitive approach, namely, to enumerate specific unfair acts and practices in the business which are generally known. The committee recognized, however, that the enumeration of specific acts and practices would not completely occupy the field, and that therefore provision had to be made for an omnibus section to cover unenumerated acts and practices.

The proposals differ, however, in the following respects: One plan (Exhibit D) follows the procedure outlined in the Federal Trade Commission Act and empowers the Commissioner, after hearing, to determine unfair acts and practices other than those specifically enumerated, and to issue cease and desist orders as to all unfair practices, whether enumerated or not. Under the alternative proposal (Exhibit E) the power to make adjudications as to unfair acts and practices and to issue cease and desist orders in connection therewith is given to the courts through the medium of the Attorney General.

These bills are receiving additional study by the members of the committee and will be the subject of further consideration at the committee's next meeting, which will be held some time before the December meeting of the Association in New York.

#### ACCIDENT AND HEALTH.

Certain conditions in the accident and health business have been a source of grave concern to the members of the National Association of Insurance Commissioners and to the members of this committee. For years many States have passed upon the forms used in the accident and health field. It has been suggested, however, that supervision of forms is not enough, and that rates should likewise be supervised, possibly under the ordinary rate regulatory bill. While the committee recognized that this is a possible solution to the problem, the complexities of the accident and health business, and the fact that it is transacted by different types of carriers, induced the committee to consider first the merits of a separate approach.

The committee is agreed that legislation should be enacted prescribing standards not only for the forms but for the premiums, because there is a direct relationship between the coverage and the premium charged. The problem is further complicated because certain companies act in concert, and desire to continue that procedure. If these companies are to continue these activities, the committee recognizes that legislation is necessary in this respect.

In addition to regulation of rates under a rate regulatory law, three additional proposals were considered. One was submitted by the Bureau of Personal Accident and Health Underwriters, under date of October 16, 1946; another was submitted by the Health and Accident Underwriters Conference, under date of October 17, 1946; and a third was developed as a result of a study of these two and legislation now in force in certain States. The first two plans have been widely circularized among the insurance departments of the several States, and for that reason no copies are attached hereto. While this committee was in session, a telegram was received from Zone 3 expressing its opposition to the proposal of the Health and Accident Underwriters Conference. A copy of the third proposal is attached hereto and marked Exhibit F.

In substance, the third proposal provides that no policy can be issued unless policy forms, applications, endorsements, classifications of risks and premium charges therefor are filed with the Commissioner. It contains standards for both the forms and the premiums. The standards for the premiums are the customary ones, namely, that they shall not be excessive, inadequate or unfairly discriminatory. The standards for the forms are likewise customary, namely, that they shall not be unjust, unfair, inequitable, misleading, contrary to law or to the public policy of the State.

Under this proposal the Commissioner is empowered, following notice and hearing, to prevent any company from using any policy form if he finds that it does not meet the standards. It also empowers the Commissioner to call for statistical information from the insurer to enable him to determine whether the standards have been met. Furthermore, it contains provisions authorizing concert of action and subjecting those organizations of insurers which operate in concert to the same supervisory processes substantially contained in the model rate regulatory bills recommended by your Committee in so far as licensing, examination, admission to membership, et cetera, are concerned.

It will be noted that this third proposal does not require affirmative approval in advance of forms and rates. The multiplicity of forms in the accident and health business, combined with certain other peculiarities of the business, seemed to make such a requirement impractical at this time. This proposal imposes no burdensome administrative details for dealing with policy contracts which on their face are fair and reasonable; on the other hand, it does provide police power to deal with those policies where, because of inadequacy of coverage or excessiveness of rate, or both, the result is unconscionable and not in the public interest. The practice of approving policy forms in advance is widespread, and the optional character of the language employed would enable a commissioner to adhere to this program under this bill; in short, the bill does not preclude that practice.

The committee has reached no final determination in the matter, and is not prepared to express any views upon any of the proposals until the conclusion of its further studies. Further consideration of the whole problem will be given by the committee at its next meeting which, as stated above, will be held prior to the December meeting of the Association in New York.

## TITLE INSURANCE.

The committee received communications from Commissioner Larson of Florida and former Superintendent Scheufler of Missouri, requesting the committee to consider the question of regulation of title insurance rates in view of the fact that in certain sections of the country such rates are made in concert. Time did not permit the committee to consider this problem. The committee will be prepared to hear any one interested in this problem at its next meeting.

## CLAYTON ACT.

At the conclusion of its labors a memorandum was submitted to the committee dealing with this subject, a copy of which is annexed hereto and marked Exhibit G. The contents of this memorandum will be considered by the committee at its next meeting.

Attached to and forming a part of the foregoing report was the supplemental report of the All-Industry Committee. That report so far as pertaining to this discussion reads as follows:

There is still some question as to the applicability of the Robinson-Patman Act to insurance because of the content of the Robinson-Patman Act and because of the uncertain terms of Public Law 15. But our opinion is that insurance cannot afford to proceed on the assumption that the Robinson-Patman Act is inapplicable and run the risk of the federal penalties, namely, action by the Federal Trade Commission, suits for treble damages, and in some cases criminal prosecution.

Our problem is to determine the state legislative program that will protect the insurance industry from the impact of the Robinson-Patman Act.

## 1. PAYMENT OF COMMISSION TO BROKERS.

We recommend that a brokers act in substantially the form submitted in our legislative proposals be passed in each State whose laws recognize insurance brokers but which do not specifically authorize the insurer to pay commissions to such brokers; for example, in Arizona, brokers are defined by statute and are licensed, but the law does not authorize the insurer to pay commissions to brokers.

From our preliminary examination we believe that legislation (in many cases simply an additional provision authorizing payment of commissions) is required in the following States:

Arizona	Massachusetts	Pennsylvania	Washington
Idaho	Missouri	Rhode Island	West Virginia
Indiana	Nebraska	Tennessee	Wyoming
Louisiana	New Hampshire	Utah	Alaska
Maine	Oregon	Vermont	Puerto Rico

## 2. PROVISIONS TO ACCOMPANY STATE RATING LAW.

(a) *Anti-discrimination.*

The provisions of the Casualty and Fire Rate Regulatory bills ("Rates shall not be excessive, inadequate or unfairly discriminatory") are recommended.

<sup>1</sup> In Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Michigan, Minnesota, Montana, North Dakota, Oklahoma, South Dakota, Texas and Wisconsin, brokers are not recognized. In Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maryland, Mississippi, New Mexico, New York, Nevada, New Jersey, North Carolina, Ohio, South Carolina and Virginia, brokers are recognized but statutes already enacted are believed to be sufficiently definite to authorize the payment of commissions to the kinds of brokers recognized.



(b) *Anti-rebate.*

The anti-rebate section attached to the Fire Rate Regulatory bills is recommended.

## 3. ABSENCE OF RATING LAW.

(a) *Anti-discrimination.*

Independent anti-discrimination statutes as suggested in the legislative proposals are recommended for each kind of insurance unregulated as to rates.

(b) *Anti-rebate.*

The anti-rebate section attached to the Fire and Casualty Rate bills is recommended as a basis for appropriate independent anti-rebate statute.

(c) *Necessary Exceptions.*

The independent anti-discrimination and anti-rebate statutes must contain exceptions as suggested in the legislative proposals.

The legislative proposals of the subcommittee recommended as a basis for an appropriate brokers' act the following:

## BROKERS ACT.

The following, adapted from existing statutes, is recommended as a basis for an appropriate brokers act:

SECTION 1. This act shall apply to all brokers as defined herein.

SECTION 2. The term "broker" as used in this act, means any person, partnership, association or corporation, who or which, for money, commission, brokerage, or anything of value, acts or aids in any manner in the solicitation or negotiation, on behalf of the assured, of contracts for insurance of any of the following kinds as specified in section , namely, life, accident, health, casualty, fidelity, surety, fire and marine.

SECTION 3. No person, partnership, association or corporation shall act as a broker without first procuring a license so to act from the [Commissioner].

SECTION 4. Application for a broker's license shall be filed with the [Commissioner] in writing and in the form prescribed by him.

SECTION 5. The [Commissioner] shall issue a broker's license to an applicant when (a) an application provided for in section four has been filed with and approved by the [Commissioner] and the [Commissioner] shall have determined the applicant to be competent and trustworthy; (b) the applicant has paid an annual fee as follows: If the applicant is a resident of this state, dollars; if the applicant is a non-resident of this state, dollars.

SECTION 6. Whenever the [Commissioner] upon notice and hearing is satisfied that any applicant for license or any broker acting under his supervision and holding a license from him is violating or has violated any provision of the insurance laws of this state, or that he is incompetent or untrustworthy, he shall proceed to issue an order denying or revoking the license of such broker.

SECTION 7. An insurance company or agent thereof may pay money, commission or brokerage, or give or allow anything of value, for or on account of the solicitation or negotiation of contracts for insurance of the kind or kinds enumerated in section two of this act, to a duly licensed broker.

Detailed provisions for notice, hearings and review of orders and finding should be integrated with the general state statutes.

The legislative proposals of the subcommittee on the Robinson-Patman Act have recommended the following as a basis for appropriate independent anti-discrimination statutes:

## STATUTES IN THE ABSENCE OF RATING LAWS.

(a) *Anti-discrimination.*

The following are recommended as a basis for appropriate independent anti-discrimination statutes:

"1. *Fire*. — No insurer doing in this state the business specified in section        shall promulgate or use any schedule of rates, any form or any underwriting rule or classification system which discriminates unfairly between risks of essentially the same hazard, territorial classification, and having substantially the same degree of protection.

2. *Casualty and Surety*. — No insurer doing in this state the business specified in sections        shall promulgate or use any schedule of rates, any underwriting rule or classification system which discriminates unfairly between risks or classes of risks."

[A specific statute for Workmen's Compensation is not included, for the reason that Workmen's Compensation insurance is so completely regulated as to rates that it seems unnecessary to suggest a provision to be used independently of a rating law].

"3. *Life*. — No insurer doing in this state the business specified in section        shall promulgate or use any rate or system of rating which discriminates unfairly between insureds of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends or other advantages.

4. *Accident and Health*. — No insurer doing in this state the business specified in section        shall make or permit any unfair discrimination between individuals of the same class in the amount of premiums, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder."

(b) *Anti-rebate.*

The following is recommended as a basis for an appropriate independent anti-rebate statute:

"No insurer or employee thereof, and no broker or agent, shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents, and to brokers duly licensed by this State; nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits."

(c) *Necessary Exceptions.*

In the absence of a statutory rating law, the anti-discrimination and anti-rebate statutes must contain specific exceptions to enable the insurer affected to operate efficiently. Uniform exceptions cannot be set forth in the statutes because different classes of insurance require different exceptions. In the case of life insurance, the following statute prohibits discrimination and rebates and contains typical exceptions for life insurance companies:

"No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor, except as otherwise expressly provided by law, shall any such company or any agent thereof make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon; nor shall any company or agent pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give or sell or purchase or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

No person shall receive or accept from any company or agent, sub-agent, broker or any other person any such rebate or premium payable on the policy, or any special favor or advantage in the dividend or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance.

Nothing in this section shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policyholders, or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, nor to prohibit any company transacting industrial insurance from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the collection of such premiums; nor shall anything in this section be construed as prohibiting the delivery of any group life insurance policy in this state which provides for the readjustment of the rate of premium based on the claim and expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, provided such readjustment is made retroactive only for such policy year."

Sections 182 to 184, inclusive, of General Laws, chapter 175, pertain to rebating.

The complete report of this committee on the Robinson-Patman Act is contained in the files of the special legislative commission.

Since the meeting of the Commissioner's committee it appears that there is an increasing volume of opinion supporting the idea that a "baby federal trade commission act", in general paralleling the language of the Federal Trade Commission Act, should receive consideration if unfair practices are to be adequately regulated at the state level in a manner which will avoid possible conflict between the state and the federal government.

We are attaching hereto alternative legislative proposals for the purpose of regulating most effectively unfair methods of competition and unfair or deceptive acts or practices at a state level. In our judgment the choice lies between Exhibit D and the Green bill. We anticipate that previous to the hearings of these bills we shall have reached a definite conclusion as to which of the proposals will best serve the purpose.



## PROPOSED LEGISLATION.

## EXHIBIT D.

## THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Forty-Seven.

## AN ACT RELATIVE TO UNFAIR PRACTICES IN THE BUSINESS OF INSURANCE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. *Purpose.* — The purpose of this act is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in Public Law 15 — 79th Congress, by defining, or providing for the determination of, all acts, methods and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

SECTION 2. *Unfair Methods and Unfair or Deceptive Acts and Practices prohibited.* — No person<sup>1</sup> engaged in the business of insurance shall engage in this state in unfair methods of competition or in unfair or deceptive acts and practices in the conduct of such business.

SECTION 3. *Methods, Acts and Practices which are defined herein as Unfair or Deceptive.* — The following are declared to be unfair methods of competition and unfair or deceptive acts and practices in the business of insurance: —

(a) *Misrepresentations and False Advertising of Policy Contracts.* — No person engaged in the business of insurance in this state shall make, issue or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued or to be issued, or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall any such person make any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit or surrender his insurance.

(b) *False Information and Advertising Generally.* — No person engaged in the business of insurance in this state shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement of any sort containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(c) *Defamation.* — No person engaged in the business of insurance in this state shall make, publish, disseminate or circulate, directly or indirectly,

<sup>1</sup> The word person, whenever used in this act, shall include individuals, corporations, associations, partnerships, reciprocal exchanges, inter-insurers, Lloyds insurers, fraternal benefit societies, and any other legal entity engaged in the business of insurance.

or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement, or any pamphlet, circular, article or literature which is false or maliciously critical and which is calculated to injure any other such person.

(d) *Boycott, Coercion and Intimidation.*—No person engaged in the business of insurance in this state shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, trade or commerce.

(e) *False Financial Statements.*—No person engaged in the business of insurance in this state shall file with any supervisory or other public official, or shall make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any financial statement of an insurer which does not accurately state its true financial condition.

(f) *Stock Operations and Advisory Board Contracts.*—No insurance company doing business in this state shall issue, nor permit its agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board or other contracts of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company acting as agent of an insurance company nor any of its agents, officers or employees, shall be permitted to sell, agree or offer to sell, or give or offer to give, directly or indirectly, in any manner whatsoever, any share of stock securities, bonds or agreement of any form or nature promising returns and profits as an inducement to insurance or in connection therewith.

(g) *Discrimination.*—No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between those of the same class and equal expectation of life in the rates charged for contracts of insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes, nor shall it discriminate unfairly between other risks involving essentially the same hazards and expense elements or between risks in the application of like rates and credits.

(h) *Rebates.*—(1) Except as otherwise expressly provided by law, no life insurance company or its agent shall make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon; nor shall any such company or agent pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give or sell or purchase or offer to give, sell or purchase as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

(2) Nothing in this or the preceding subsection shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or district offices a percentage of the premium which the company would have paid for the collection of such premiums; nor to prohibit the readjustment of the rate of premium for a

group life insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, such readjustment to be made retroactive only for such policy year.

(i) Any violation of any one of sections                      is also hereby declared to be an unfair method of competition and an unfair or deceptive act and practice in the business of insurance.<sup>1</sup>

(j) The enumeration in this act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the [commissioner] or any court of review under the provisions of section four of this act.

*Note.* — Each state may add such additional definitive acts as may be considered necessary or desirable.

SECTION 4. *Other Unfair Competition, Acts and Practices.* — (a) If the [commissioner] shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in an act or practice in the conduct of such business, other than those enumerated in subdivisions (a) to (i), inclusive, of section three, and that such method is an unfair method of competition, or that such act or practice is unfair or deceptive, or if he shall have reason to believe that any such person is engaging in this state in any method of competition or in any act or practice enumerated in section three, and that a proceeding by him in respect thereof would be to the interest of the public, he may issue and serve upon such person a statement of the charges and a notice of a hearing thereon to be held at a time and place fixed in the notice which shall not be less than                      days from the date of service thereof. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the [commissioner] requiring such person to cease and desist from the violation of the law charged in the complaint.

If after such hearing the [commissioner] shall be of the opinion that the method of competition or the act or practice in question is prohibited by this act, he shall reduce his findings to writing and shall issue and cause to be served on the person charged with the violation of law an order requiring such person to cease and desist from such method, act or practice. Until the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if no such [notice of appeal] [petition for such writ] has been duly filed within such time, or if a [notice of appeal] [petition for such writ] has been filed within such time, then until the transcript of the record in the proceeding has been filed in the                      court, as hereinafter provided, the [commissioner] may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by him under this section. After the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if no such [notice of appeal] [petition for such writ] has been duly filed within such time, the [commissioner] may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any report or order made or issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action, or if the public interest shall so require.

(b) Any order of the [commissioner] directing any person to cease and desist from using any method of competition or act or practice shall be sub-

<sup>1</sup> Insert section numbers of any other sections of the insurance law which it is deemed desirable or necessary to include as an unfair trade practice.



ject to review [here insert language describing scope of review] by [appeal] [writ of certiorari] to [the court] of [county].<sup>1</sup> The court shall determine whether the filing of the [appeal] [petition for such writ] shall operate as a stay of such order of the [commissioner]. The court may, in disposing of the issue before it, modify, affirm or reverse the order of the [commissioner] in whole or in part. To the extent that the order of the [commissioner] is affirmed or modified, the court shall issue its own order commanding obedience to the terms of the order of the [commissioner].

(c) No order of the [commissioner] or judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under any other laws of this state.

(d) An order of the [commissioner] to cease and desist shall become final —

1. Upon the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if no such [notice of appeal] [petition for such writ] has been duly filed within such time.

2. Upon a final decision of the court if a judicial review has been sought of the order of the [commissioner].

(e) If the report of the [commissioner] does not charge a violation of this act, then any party to the proceeding, including any intervenor, may within [ ] days after the service of such report cause a like petition to be filed in the [ ] court of [ ] county for a review of the report of the [commissioner]<sup>2</sup>.

SECTION 5. *Power of [Commissioner]*. — The [commissioner] shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair act or practice.

SECTION 6. *Hearing, Witnesses, Production of Books*. — At the time and place fixed for the hearing before the [commissioner], such person shall have an opportunity to be heard. The [commissioner] upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence or other documents which he deems relevant to the inquiry. The [commissioner] upon such hearing may, and upon the request of any party shall, cause to be made a written record of all the evidence offered or introduced and proceedings had at such hearing.

Nothing in this act contained shall require the observance at any hearing of formal rules of pleading or evidence.

SECTION 7. *Appearances*. — Upon good cause vested in the [commissioner] by this act shall be in intervene, appear and be heard at such hearing.

SECTION 8. *Procedure Additional*. — The powers vested in the [commissioner] by this act, shall be in addition to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

SECTION 9. *Penalty*. — Any person who violates an order of the [commissioner] to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the state of [ ] a civil penalty of not

<sup>1</sup> The county in which the seat of government is located. If time within which appeal must be taken should be limited, insert such provision.

<sup>2</sup> Set forth judicial review statutes and procedures in each state.

more than five thousand dollars for each violation, which may be recovered in a civil action.

SECTION 10. *Punishment for Failure to Obey Subpoena.* — In case of refusal of any person to comply with any subpoena issued hereunder, or to testify to any matter to which he may be lawfully interrogated, the court of any county on application of the [commissioner] may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

SECTION 11. *Constitutionality.* — If any section, sub-section, subdivision, paragraph, sentence or clause of this act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this act.

## THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Forty-Seven.

AN ACT RELATIVE TO UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN THE BUSINESS OF INSURANCE.<sup>1</sup>

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Unfair methods of competition in the business of insurance,<sup>2</sup> and unfair or deceptive acts or practices in that business, are hereby declared unlawful. The [commissioner of insurance], hereinafter referred to as [commissioner], is hereby empowered and directed to prevent insurers, and all persons<sup>3</sup> acting for them or on their behalf, from using unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as provided in this act.

SECTION 2. The [commissioner] shall from time to time make such rules and regulations as are necessary for the carrying out of the provisions of this act, which rules and regulations he may amend, modify or annul. In such rules and regulations he shall enumerate the acts which he finds constitute unfair methods of competition or unfair or deceptive practices in the business of insurance. Except as provided in section three of this act, no such rules and regulations or any amendment or modification thereof shall become effective until the [commissioner] shall have held a public hearing thereon following the giving, at least thirty days prior to said hearing, of notice of the intention to hold such hearing, by United States mail, to each insurer licensed in this state who will be affected by the proposed rules or regulations and by publication once in each week for three successive weeks during said thirty days in a newspaper published at the state capitol. After each such hearing he shall make his decision in writing, determining what, if any, acts set out in the proposed rules and regulations he finds constitute unfair methods of competition or unfair or deceptive acts or practices in the business of insurance, and make and file in his office final rules and regulations accordingly, of which he shall give immediate notice by mail to all persons who were given written notice of the hearing. The rules and regulations shall become effective thirty days after they are filed. Any insurer, or person acting for or on behalf of an insurer, aggrieved by any rule or regulation made by the [commissioner] may have the part of the decision of the [commissioner] relating to such rule or regulation reviewed by [appeal] [writ of certiorari] to [the court].<sup>4</sup> The [notice of appeal] [petition for writ of certiorari] must be filed within thirty days after the filing of the rules and regulations, and may be brought on for hearing by the [commissioner] or the [appellant] [petitioner] on days' notice. The court shall determine whether the filing of the [notice of appeal] [peti-

<sup>1</sup> This proposed act follows as closely as practicable section 5 of the Federal Trade Commission Act, 52 Stat. 111, c. 49, 15 U. S. C. A., § 45, 4 F. C. A. Tit. 15, § 45. For recent decisions under this act see: *Jacob Siegel Co. v. Federal Trade Commission*, decided March 25, 1946; *Federal Trade Commission v. A. P. W. Paper Co. Inc.*, decided May 6, 1945; *Ford Motor Co. v. Federal Trade Commission*, 120 F. 2d 175, cert. den. 314 U. S. 668; *Pep Boys — Manney, Moe & Jack v. Federal Trade Commission*, 122 F. 2d 158; *Scientific Mfg. Co. v. Federal Trade Commission*, 124 F. 2d 640. The Federal Trade Commission Act is not intended to exclude state control over the unfair practices of a concern that is essentially local in its operation, merely because some of its transactions considered separately constitute interstate commerce. *Ritholz et al. v. Ammon*, 240 Wis. 578, 4 N. W. 2d 173. Principles relied on in last cited case reaffirmed in *Southern Pacific v. Arizona*, 325 U. S. 761.

<sup>2</sup> It is assumed that "insurer" is defined in some other section of the statutes.

<sup>3</sup> It is assumed that the word "persons" is defined elsewhere in the statutes to include corporations, associations, partnerships, etc.

<sup>4</sup> Consideration should be given to the practice and procedure in each state.



tion for such writ] shall operate as a stay of the rule or regulation, or portion thereof, sought to be reviewed. The court may, in disposing of the issue before it, modify, affirm or reverse the decision of the [commissioner] complained of, in whole or in part, and the [commissioner] shall conform his rules and regulations to the decision of the court. Except as provided in section three of this act, no proceeding shall be taken by the [commissioner] to prevent any unfair method of competition or any unfair or deceptive practice in the business of insurance unless such act is enumerated in a rule or regulation adopted as provided in this section, and, after judicial review thereof, if the operation of the rule or regulation as to that method of competition or act or practice has been stayed during such review.

SECTION 3. Whenever it shall appear to the [commissioner] that any insurer, or any person acting for or on behalf of an insurer, has been or is using an unfair method of competition or unfair or deceptive act or practice in the business of insurance, and that an emergency exists requiring immediate action in order that the public may not be defrauded, the [commissioner] may proceed as hereinafter in this act provided without having first adopted a rule or regulation enumerating the unlawful method, act or practice by which, in his opinion, the public will be defrauded. In any such case, before proceeding the [commissioner] shall file in his office a declaration of the emergency requiring immediate action, with his reasons for such declaration, copies of which shall be sent by registered mail to all persons claimed by the [commissioner] to be using the unlawful method, act or practice.

SECTION 4. The [commissioner] shall have power to examine and investigate into the affairs of every insurer and every person acting for or on behalf of an insurer, in order to determine whether such insurer or other person has been or is engaged in any of the methods, acts or practices prohibited by this act.

SECTION 5. Whenever the [commissioner] shall have reason to believe that any insurer, or any person acting for or on behalf of an insurer, has been or is using any unfair method of competition or unfair or deceptive act or practice in the business of insurance which has been enumerated in an effective rule or regulation adopted as provided in section two of this act, and it shall appear to him that a proceeding by him in respect thereof would be to the interest of the public, he shall issue and serve upon such insurer or other person a complaint stating his charges in that respect and containing a notice of a hearing thereon upon a day and at a place therein fixed, at least thirty days after the service of said complaint. The insurer or other person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the [commissioner] requiring such insurer or other person to cease and desist from the violation of the law charged in the complaint. Any person may make application, and upon good cause shown may be allowed by the [commissioner], to intervene and appear in said proceeding, by counsel or in person. The [commissioner] upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. In case of a refusal of any person to comply with any subpoena issued hereunder, or to testify to any matter concerning which he may be lawfully interrogated, the court of any county, on application of the [commissioner] may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. Nothing in this act contained shall require the observance at any such hearing of formal rules of pleading or evidence. The testimony in any such proceeding shall be reduced to writing and filed in the

office of the [commissioner]. If after such hearing the [commissioner] shall be of the opinion that the method of competition or the act or practice in question is prohibited by this act, he shall reduce his findings to writing and shall issue and cause to be served on the insurer or other person charged with the violation of law an order requiring such insurer or other person to cease and desist from such methods, act or practice. Until the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if not such [notice of appeal] [petition for such writ] has been duly filed within such time, or if a [notice of appeal] [petition for such writ] has been filed within such time, then until the transcript of the record in the proceeding has been filed in the court, as hereinafter provided, the [commissioner] may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by him under this section. After the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if no such [notice of appeal] [petition for such writ] has been duly filed within such time, the [commissioner] may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any report or order made or issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

SECTION 6. Any order of the [commissioner] directing any insurer or other person to cease and desist from using any method of competition or act or practice shall be subject to review [here insert language describing scope of review] by [appeal] [writ of certiorari] to [the court] of county.<sup>1</sup> The court shall determine whether the filing of the [appeal] [petition for such writ] shall operate as a stay of such order of the [commissioner]. The court may, in disposing of the issue before it, modify, affirm or reverse the order of the [commissioner] in whole or in part. To the extent that the order of the [commissioner] is affirmed or modified, the court shall issue its own order commanding obedience to the terms of the order of the [commissioner].

SECTION 7. No order of the [commissioner] or judgment of the court to enforce the same shall in any wise relieve or absolve any insurer or person acting for or on behalf of such insurer from any liability under any other laws of this state.

SECTION 8. Complaints, orders and other processes of the [commissioner] under this act may be served by any one duly authorized by the [commissioner], either in the manner provided by law for service of process in civil actions or by registering and mailing a copy thereof addressed to such insurer or other person at its or his residence or principal office or place of business. The verified return by the person so serving said complaint, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such complaint, order or other process registered and mailed as aforesaid shall be proof of the service of the same.

SECTION 9. An order of the [commissioner] to cease and desist shall become final —

1. Upon the expiration of the time allowed for filing a [notice of appeal] [petition for writ of certiorari], if no such [notice of appeal] [petition for such writ] has been duly filed within such time.

2. Upon a final decision of the court if a judicial review has been sought of the order of the [commissioner].

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<sup>1</sup> The county in which the seat of government is located. If time within which appeal must be taken should be limited, insert such provision.

SECTION 10. Any person who violates an order of the [commissioner] to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the state of                    a civil penalty of not more than five thousand dollars for each violation, which may be recovered in a civil action.

#### CONCLUSION.

All of the above-mentioned matters should be given consideration by a special commission similar to the Special Recess Commission which sat during the 1945 recess, and therefore —

1. We recommend the enactment of a Resolve containing provisions similar to those in House Bill No. 50 of 1946, and in addition authority to study and make recommendations relating to Non-Profit Hospital Corporations formed under General Laws, chapter 176A, and also such part of the Workmen's Compensation Law (G. L., c 152) as pertains to the activities of the Insurance Department.

2. Realizing the burdens carried by the Insurance Committee, and taking into consideration the length of our legislative sessions, it may prove desirable to have this work undertaken by a special commission appointed by the Governor, with the Commissioner of Insurance serving as a member ex officio. As an alternative to paragraph 1 we recommend the appointment of a special commission consisting of four members, one of whom shall be the Commissioner of Insurance, ex officio, or a member of the Insurance Department staff designated by him, and three other persons appointed by the Governor, one of whom shall be an attorney at law familiar with the Massachusetts insurance laws relating to insurance and insurance companies, and one of whom shall be a purchaser of insurance other than an insurance agent or broker or employee or officer of an insurance company or agency of such company. A Resolve drafted to accomplish this purpose is submitted herewith.



## DEPARTMENT FINANCES

## INCOME, 1946

Life Insurance Companies' Valuation Tax .....	\$40,911.97
Agents' Licenses .....	104,414.75
Brokers' Licenses .....	90,405.00
Company Licenses .....	2,634.00
Adjusters' Licenses .....	1,900.00
Certificate Fees .....	3,114.00
Charter Fees .....	240.00
Service of Process Fees .....	196.00
Statement Fees .....	7,534.00
Advisers' Licenses .....	650.00
Re-Examination Fees — Agents .....	374.00
Re-Examination Fees — Brokers .....	528.00
Re-Examination Fees — Advisers .....	10.00
Reimbursement for Services .....	11,902.11
Reimbursement — Examination of Retirement Systems .....	27,380.69
Miscellaneous (Retaliatory Fees) .....	404.90
	<hr/>
	\$292,599.42

During the fiscal year ending June 30, 1946, the Division of Insurance collected fees amounting to \$292,599.42 of which \$90,405.00 was produced by brokers' licenses, \$104,414.75 by agents' licenses, \$40,911.97 by the valuation of life policies, \$7,534.00 by annual statements and \$49,333.70 from miscellaneous sources.

The expenses amounted to \$500,460.77.

## FINANCIAL STATEMENT VERIFIED

(Under Requirements of C. 7, S 19 GL)

Date: January 28, 1948

By: Joseph A. Prenney

*For the Comptroller (App. R.E.N.)*

Approved for Publishing:

Fred A. Moncewicz

*Comptroller*

The item entitled, "Reimbursement for Services" is set forth in the following statement:

REIMBURSEMENT FOR SERVICES  
INCOME FOR FISCAL YEAR, JULY 1, 1945 — JUNE 30, 1946

	TRAVEL	SERVICES
Employers' Liability Assurance Corporation, Ltd. ....	\$277.30	\$ —
Allstate Fire Insurance Co. ....	107.61	51.33
American Aviation & General Ins. Co. ....	60.26	40.00
Manufacturers' Casualty Ins. Co. }		
Manufacturers' Fire Ins. Co. .... }		
	168.33	200.00
National Surety Marine Ins. Co. ....	94.57	120.64
Interstate Insurance Co. ....	101.18	150.00
United National Indemnity Co. ....	14.91	10.33
Surety Fire Insurance Co. ....	37.35	32.90
Liberty Mutual Insurance Co. ....	731.42	—
United Mutual Fire Ins. Co. ....	197.16	—
Knights of Columbus ....	811.77	1,078.17
Planet Insurance Co. ....	148.47	66.32
Cuna Mutual Ins. Society ....	630.24	491.28
Massachusetts Bonding & Ins. Co. ....	621.08	—
Emmco Casualty Co. }		
Emmco Fire Ins. Co. .... }		
	1,675.50	82.94
Hardware Indemnity Ins. Co. ....	255.15	300.00
American Mutual Reinsurance Co. ....	116.37	120.00
Continental Assurance Co. ....	52.38	45.00
Minnesota Mutual Life Ins. Co. ....	640.51	1,400.00
Old Republic Credit Life Ins. Co. ....	285.64	315.00
	<hr/> \$7,027.20	<hr/> \$4,503.91
Total Travel Reimbursement .....		\$7,027.20
Total Services Reimbursement .....		4,503.91
		<hr/> \$11,531.11
New Zealand Insurance Company	Auditing Statement	20.00
Christiania General	Auditing Statement	20.00
National Re-insurance Corporation	Auditing Statement	20.00
Reinsurance Corporation of New York	Auditing Statement	20.00
Skandinavia Insurance Company	Auditing Statement	20.00
Colonial Assurance Company	Auditing Statement	20.00
International Insurance Company	Auditing Statement	20.00
Eagle Fire Insurance Company	Auditing Statement	20.00
Metropolitan Fire Reassurance Company	Auditing Statement	20.00
Northeastern Insurance Company	Auditing Statement	20.00
American Home Fire Insurance Company	Auditing Statement	20.00
Farmers Alliance	Auditing Statement	20.00
Oregon Mutual Fire Insurance Company	Auditing Statement	20.00
Hudson Insurance Company	Auditing Statement	20.00
Skandia Insurance Company	Auditing Statement	20.00
Prudential Insurance Co. of Great Britain	Auditing Statement	20.00
South Carolina Insurance Company	Auditing Statement	20.00
Western Millers Mutual Fire	Auditing Statement	20.00
Insurance Agents Council A. F. of L.	Copying Lists of Agents	11.00
		<hr/> \$11,902.11

## DIVISIONAL EXPENSE

Year	Income	Commissioner's Salary	Personal Services	Contingent Expenses	Board of Appeal on Fire Insurance Rates	Total
1936	\$276,514.02	\$6,000.00	\$249,037.85	\$59,639.43	\$617.51	\$315,294.79
1937	276,446.02	6,000.00	251,626.24	68,516.46	250.00	326,392.70
1938	280,084.09	6,000.00	269,483.25	70,921.60	424.20	346,829.05
1939	275,330.68	6,000.00	302,776.89	74,882.57	190.00	383,849.46
1940	278,962.97	6,000.00	311,641.30	67,696.54	103.50	385,441.34
1941	269,000.11	6,000.00	325,300.68	73,060.71	60.00	404,421.39
1942	251,484.45	6,000.00	343,126.71	65,648.44	20.00	414,795.15
1943 (7 mos.)	106,219.87	3,500.00	194,307.33	32,271.11	—	230,078.44
1944	255,420.77	7,650.31	364,942.97	70,396.19	—	442,989.47
1945	287,151.50	7,860.00	369,502.62	64,296.04	—	441,658.66
1946	292,599.42	7,920.00	412,099.81	80,440.96	—	500,460.77

The increased cost of insurance supervision is due to the expanding of duties placed on the Department. We have consistently advised against the enactment of certain legislation which we believed would prove costly to the Commonwealth. However, when the laws are enacted, it becomes the duty of the Commissioner to make certain that funds are appropriated and personnel provided to carry out increased work. Wherever possible, we have made an effort to absorb additional duties without increasing the number of employees. Obviously, there is a limit to this procedure.

*Conclusion*

During this first post-war calendar year, we have been able to resume the supervisory activities which were curtailed on account of wartime conditions. Nearly all of the personnel previously engaged in war activities have returned to their positions. Those who have not returned, have indicated a determination to accept employment elsewhere. High salaries in private industry still prevail; hence, we continue to experience difficulty in filling civil service positions in certain classifications, principally the stenographic, actuarial and clerical positions.

We believe it is the appropriate time to advise the Legislature that the probable enactment of new legislation to meet the impact of the decision in the South-Eastern Underwriters' case and the enactment of United States Public Law 15, will also require that legislation which expands the duties of the Department should provide for necessary additional positions to appropriately administer the new laws. We are quite certain that the mere enactment of legislation designed to regulate the activities of insurance companies without adequate provision for the administration and enforcement of the legislation, will not satisfy the Congress. The debates which preceded the enactment of United States Public Law 15, coupled with the statement of President Roosevelt, which accompanied the Act to which he attached his signature on March 9, 1945 (U. S. Public Law 15), indicated the attitude of the Federal administration with respect to the way the States are expected to supervise the business of insurance if that responsibility is to remain in the hands of State officials. We are prepared to absorb some part of the increase in work which may be required of the Department by a re-allocation of duties and the modernization of some of the methods of the Department, provided, of course, adequate provision is made for the purchase of modern office equipment.

Respectfully submitted,

CHARLES F. J. HARRINGTON,  
*Commissioner of Insurance.*



## APPENDIX "A"

## SUPREME COURT OF THE UNITED STATES.

No. 274.—OCTOBER TERM, 1945.

<p>F. O. Robertson, Appellant,</p> <p style="text-align: center;"><i>vs.</i></p> <p>The People of the State of California.</p>	}	<p>Appeal from the Superior Court of Ventura County, State of California.</p>
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[June 3, 1946.]

Mr. Justice RUTLEDGE delivered the opinion of the Court.

This case differs from *Prudential Insurance Co. v. Benjamin*, No. 707, decided this day, in three respects. It is a criminal cause; the statutes involved regulate, rather than simply tax, the business of insurance; and appellant's acts held to violate them were done before the McCarran Act's<sup>1</sup> effective date.

Appellant was convicted in a state court for violating §§ 703(a) and 1642 of the California Insurance Code and the conviction was sustained on appeal to the Superior Court of Ventura County.<sup>2</sup> Appellant now urges here primarily that the application which has been made of those sections is a regulation of interstate commerce forbidden by the commerce clause of the Constitution, Article I, § 8, in view of *United States v. South-Eastern Underwriters Ass'n*, 322 U. S. 533. He also puts forward due process and equal protection arguments, resting on his conception of the applicability of those provisions of the Fourteenth Amendment.<sup>3</sup>

The California Insurance Code provisions are as follows:

"703. Except when performed by a surplus line broker, the following acts are misdemeanors when done in this State:

"(a) Acting as agent for a nonadmitted insurer in the transaction of insurance business in this State."

"1642. A person shall not act as an insurance agent, broker or solicitor until a license is obtained from the Commissioner, authorizing such person so to act."<sup>4</sup>

The complaint charged in two counts that appellant had (1) acted without a license as an agent for a nonadmitted insurer in soliciting and selling a policy contrary to § 703(a), and (2) solicited and sold a policy of insurance without being licensed as required by § 1642.

The evidence, which is undisputed, disclosed the following facts. The First National Benefit Society is an Arizona corporation, conducting from Phoenix a mutual benefit type of insurance business. Its method of operation must be inferred from the facts of record, in the absence of other evidence. One O'Lein,

<sup>1</sup> Public Law 15, 79th Cong., 1st Sess., c. 20, approved March 9, 1945; 15 U. S. C. §§ 1101-1115. See text *infra*, following note 32.

<sup>2</sup> The conviction was obtained in the Justice's Court of Ventura Township, California. The Superior Court of Ventura County was the highest court of the state to which appeal could be taken. Its opinion is not reported. The penalty was a fine of \$100 imposed for violating each count.

<sup>3</sup> In the Statement of Appeal filed in the Superior Court the grounds relied upon, apart from commerce clause and local law objections, were only that appellant's acts "were, if true, done by him in accordance with the provisions of the Fourteenth Amendment to the Constitution of the United States . . ." and that §§ 703(a) and 1642 "are unconstitutional and in violation of . . . the Fourteenth Amendment. . . ."

<sup>4</sup> Deering's California Codes, Insurance Code of California, §§ 703, 1642. These sections are part of California's comprehensive regulatory scheme for the business of insurance; and are directly related, in the case of § 703, to the requirements laid by other sections for acting as surplus line broker, see text *infra*; and in that of § 1642 to such requirements for securing a license to act in the specified representative capacities, see text *infra*.

then an elderly resident of Ventura, California, had difficulty in securing insurance on account of his age. Prior to August 28, 1944, he had learned of the Society's "Gold Seal" policy, by radio and through "literature." This apparently was mailed from the home office and included a printed form of return postal card marked, presumably pursuant to postal permit, "Postage will be Paid by Addressee," the Society. O'Lein filled in and returned the card to the Society in Phoenix, asking it to "send me, without obligation, details of 'GOLD SEAL' POLICIES." A few days later, on August 28, 1944, appellant called at O'Lein's home with the card, stating he represented the First National Benefit Society. Thereupon he explained to O'Lein the terms of the policy, its benefits, and costs, soliciting and persuading the prospect to take out a policy for himself and one also for his wife. No medical examination was required. Appellant filled in the application forms, procured the signatures, accepted from O'Lein a check made out in appellant's name in payment of the first quarterly premiums, gave receipts, later cashed the check at a local bank, and received the proceeds. A few days later the O'Leins received policies by mail from the Society's office in Phoenix.

The evidence further showed that the Society was not admitted to do business in California and that appellant had no license of any kind to act as an insurance agent, broker or solicitor there.

We may deal first exclusively with the objections founded on the commerce clause, since each of the others would be obviously without merit but for the supposed effects of the *South-Eastern* decision<sup>5</sup> not only in relation to the prohibitory consequences of that clause but also, apparently, to resurrect other limitations upon state power long since settled adversely to such claims in reference to the business of insurance.<sup>6</sup>

## I.

Little need be said in relation to the general license requirement of § 1642, except to state more fully its effects by virtue of its relation to other provisions of the California Insurance Code, which prescribe the conditions for securing the license. Those requirements, in summary, are that an application must be made upon a prescribed form setting forth the kinds of insurance the applicant desires to transact (§ 1643); he must be a citizen of the United States or one who has applied for citizenship; and must have attained his majority (§ 1648.5); he must pass a written examination as to his qualifications (§ 1674) and pay two fees, one a filing fee of \$4, the other an examination fee of \$5 (§ 1678). On his fulfilling these conditions the license is issued if the state commissioner of insurance is satisfied that he is qualified and intends in good faith to carry on the business (§ 1649).

Section 1639 declares that the purpose of these and other provisions of the Code is "to protect the public by requiring and maintaining professional standards on the part of all insurance agents acting as such within this State." The statutory requirements apply to all agents, without discrimination, whether they represent California or out-of-state insurance companies and whether the business done is interstate or local in character. They apply only to agents acting in California, not to acts done outside the state.

<sup>5</sup> But see 322 U. S. 533, 547 ff.

<sup>6</sup> Thus, it was long settled, under the doctrine of *Paul v. Virginia*, 8 Wall. 168, that neither due process nor equal protection of the laws forbids the kind of state regulation of the business of insurance imposed by §§ 703(a) and 1642. *Hooper v. California*, 155 U. S. 648; *Nutting v. Massachusetts*, 183 U. S. 553. See also *Hoopston Co. v. Cullen*, 318 U. S. 313, and text *infra* at note 32.

As to the dangers of blurring the due process and equal protection limitations with commerce clause ideas, and the consequent necessity for separate treatment in disposing of these problems, see Ribble, *State and National Power over Commerce* (1937) 98; *Nippert v. Richmond*, 66 S. Ct. 586, 589-580; *McLeod v. Dilworth*, 322 U. S. 327, dissenting opinion at 357. Cf. also *Bethlehem Motors Corp. v. Flynt*, 256 U. S. 421; *Henderson, The Position of Foreign Corporations in American Constitutional Law* (1918) 122; and see c. IX.

Appellant has not sought to obtain a license under the Code provisions, has not been denied one, and has not attacked any particular requirement. His charge is wholesale, not particular. It is, in effect, that since the entire series of acts done by him was directed to the conclusion of an interstate transaction, within the *South-Eastern* ruling, those acts though taking place altogether within California were inseparably a part of the interstate transaction and therefore beyond reach of the state's licensing or regulatory power. The contention appears to contemplate not only that appellant's acts were interstate commerce, but also that the state cannot impose any licensing requirement upon them or, it would seem, upon any phase of conducting an interstate insurance business through agents acting in person.

To state the argument in this way is in effect to answer it. We accept the regulation for what it purports to be on its face and by the statute's express declaration, namely, a series of regulations designed and reasonably adapted to protect the public from fraud, misrepresentation, incompetence and sharp practice which falls short of minimum standards of decency in the selling of insurance by personal solicitation and salesmanship. That such dangers may exist, may even be widely prevalent in the absence of such controls, is a matter of common knowledge and experience. And no argument is needed to show that these evils are most apt to arise in connection with the activities of the less reliable and responsible insurers, as well as insurance brokers or salesmen, and vitally affect the public interest.<sup>7</sup>

Such being the purpose and effect of § 1642, there can be no substantial question concerning its validity on commerce clause grounds. That is true whether appellant's acts are taken, in their setting, as being "in" commerce or only as "affecting" it. For the case is ruled, so far as § 1642 is concerned, by decisions such as *California v. Thompson*, 313 U. S. 110; *Hartford Indemnity Co. v. Illinois*, 298 U. S. 155; *Smith v. Alabama*, 124 U. S. 465; *Nashville, C. & St. L. Ry. Co. v. Alabama*, 128 U. S. 96; and *Union Brokerage Co. v. Jensen*, 322 U. S. 202.<sup>8</sup>

If, in the absence of contrary action by Congress, a state may license agents or brokers for the sale of interstate transportation in order to prevent fraud, *California v. Thompson*, *supra*; trainmen engaged in interstate commerce to secure their competence, *Smith v. Alabama*, *supra*; *Nashville, C. & St. L. Ry. Co. v. Alabama*, *supra*; the sale on commission of interstate consignments of farm produce to secure honest dealing and financial responsibility, *Hartford Indemnity Co. v. Illinois*, *supra*; and the activities of customs brokers to secure responsibility in the state courts on claims arising locally, *Union Brokerage Co. v. Jensen*, *supra*, by the sorts of conditions imposed through the respective licensing provisions, there can be no valid reason for outlawing § 1642 here.

That appellant's activities were of a kind which vitally affect the welfare and security of the local community, the state and their residents could not be denied. Cf. *Hoopston Co. v. Cullen*, 318 U. S. 313, 316 ff. They had in fact a highly "special interest" in his localized pursuit of this phase of the comprehensive process of conducting an interstate insurance business. Cf. *Union Brokerage Co. v. Jensen*, *supra*, at 212. Here, as in each of the instances cited, appellant's activities called in question were concentrated in the regulating state, although affect-

<sup>7</sup> See *Hartford Accident & Indemnity Co. v. Nelson*, 291 U. S. 352, 360; *German Alliance Ins. Co. v. Lewis*, 233 U. S. 381, 412-415; *Osborn v. Ozlin*, 310 U. S. 53, 65, 66; *National Union Fire Ins. Co. v. Wannberg*, 260 U. S. 251, 257. And see also *United States v. South-Eastern Underwriters Ass'n*, 322 U. S. 533, 539 ff.; *Prudential Life Ins. Co. v. Benjamin*, No. 707, decided this day.

<sup>8</sup> In some of these cases, e. g., *Hartford Indemnity Co. v. Illinois*, 298 U. S. 155, and *Union Brokerage Co. v. Jensen*, 322 U. S. 202, there were also federal licensing statutes which the Court found neither inconsistent with nor, therefore, effective to exclude the state licensing regulation. The *Union Brokerage* case involved an instance of state regulation of foreign commerce.

In addition to the cited authorities, see also the decisions cited and relied upon in each of the opinions.



ing or constituting interstate commerce. Moreover the licensing provision of § 1642 is regulatory, not exclusory in character; is not discriminatory; is not in conflict with any policy or action of Congress but rather accords with its expressed views in so far as the McCarran Act may be taken to be applicable;<sup>9</sup> and is designed appropriately to secure the public from those evils of uncontrolled insurance solicitation to which it is directed. In view of these facts the regulation "neither discriminates against nor substantially obstructs the commerce." *California v. Thompson, supra*, at 114.

Furthermore, here as in the cited cases, "unless some measure of local control is permissible," the activities and their attendant evils "must go largely unregulated," unless or until Congress undertakes that function. *California v. Thompson, supra*, at 115. And in view of the well-known conditions of competition in this field, such a result not only would free out-of-state insurance companies and their representatives of the regulation's effect, thus giving them advantage over local competitors, but by so doing would tend to break down the system of regulation in its purely local operation.

## II.

Section 703(a) is interwoven with different conditions and therefore has somewhat different effects than does § 1642. Unlike the latter, which applies to acting as agent for all insurers, it forbids acting as agent for nonadmitted insurers alone, unless the person so acting is a "surplus line broker."<sup>10</sup> To become a surplus line broker one must procure a special license pursuant to the requirements of § 1765. This license also is issued upon application, if the commissioner of insurance finds that the applicant is "trustworthy and competent to transact an insurance brokerage business in such a manner as to safeguard the interest of the insured." The applicant also must file with the commissioner a faithful performance bond in the amount of \$5000 and pay a filing fee of \$50.

So far as concerns these requirements of § 1765 for procuring the surplus line broker's license, if they are considered without reference to any of the other Code provisions, the same conclusion is required concerning the validity of § 703(a) as for that of § 1642, by the authorities above cited and discussed. Indeed the filing fee of \$50 is larger than the combined fees required by § 1642, but not more than the fee involved in the *Union Brokerage* case, *supra*. And the bond provision is substantially identical with that sustained in *California v. Thompson, supra*. In the absence of any showing that it is administered arbitrarily, the requirement that the license shall issue only after a finding of trustworthiness and competence by the commissioner cannot be taken to be other than an appropriate means of safeguarding the public against the obvious evils arising from the lack of those qualifications. *California v. Thompson, supra*. Considered separately from any relationship to other sections of the Code, therefore, the prescribed conditions for securing the surplus line broker's license are no more invalid than those which must be fulfilled to secure the general agent's license under § 1642.<sup>11</sup>

This the state contends is all that needs to be considered, since appellant neither possessed nor, so far as appears, had applied for or been denied a surplus line

<sup>9</sup> See text *infra* following note 32.

<sup>10</sup> See note 14, as to "surplus line insurance." In general this is insurance involving special risks or for some other reason not falling within the usual lines of authorized business.

<sup>11</sup> Appellant also points out that by § 1775.5 an annual tax equal to three per cent of the gross premiums upon business done during each calendar year is imposed upon each surplus line broker. Apart from the facts that appellant has not applied for such a license and that no effort has been made to collect this tax from appellant, so far as appears, it may be noted that the tax applies alike to all surplus line brokers, whether acting for domestic or admitted foreign insurers or for nonadmitted ones. No question as to the validity of this tax is presented by this record.

broker's license. Consequently, in its view, the validity of other provisions of the Code is not involved, either directly or by necessary relationship to § 703(a).<sup>12</sup>

### III.

Appellant insists, however, that § 703(a) taken in conjunction with § 1765, is more than a licensing requirement for regulating the qualifications of agents acting in California in the transaction of the business covered by its terms. It is rather, he maintains, a prohibition of the writing of such insurance there by non-admitted insurers and their agents. And this, he says, the state cannot do, both because it cannot exclude interstate commerce in California and because it cannot discriminate against out-of-state insurers in such a manner.

These conclusions are based on the view that § 703(a) is related inseparably by its terms and in fact to other Code provisions in addition to § 1765, namely, those regulating the admission of foreign insurance corporations to do business in California<sup>13</sup> and the interwoven provisions regulating activities of surplus line brokers.<sup>14</sup> Section 703(a) on its face forbids acting as agent for nonadmitted insurers, except in the case of a surplus line broker. And the combined effects of the provisions relating to such brokers and of those governing the admission of foreign corporations are said to be to "absolutely prohibit" the writing of or aiding in procuring the type of insurance issued here or indeed of any insurance issued by the Society.<sup>15</sup>

<sup>12</sup> Indeed the state argues that no question is raised concerning the validity of the requirements of § 1765 for procuring the surplus line broker's license since, "so far as this record shows, the life insurance sought to be effected in this case might or might not have been procurable from admitted insurers."

However, on the alternative basis of accepting appellant's view that the insurance would not have been so obtainable, California concedes the insurance would fall within the surplus line exception, but asserts that appellant, if he had obtained the license, could have acted as agent in the transaction. Hence, since he did not apply for the license, the state argues that § 1765 has not been applied to him and its validity is not involved.

Appellant, however, maintains that even if he had secured the license, the combined effects of § 703(a) and other sections relating to surplus line insurance would have forbidden him to act in this transaction. See text *infra* Part III. California maintains that the validity of other Code sections, apart from §§ 703(a) and 1642, was not in issue in the state courts and, though raised here in the briefs, is not necessarily involved.

<sup>13</sup> See California Insurance Code §§ 1560-1607, 10818. Appellant relies particularly upon § 10818, prohibiting the organization or admission of new insurers after January 1, 1940, to operate as so-called "Chapter 9" companies, that is, among others, as mutual companies having less than the reserve requirements specified for such insurers operating on the assessment plan, but permitting previously organized or admitted companies to continue under specially imposed requirements. See text *infra* at notes 16, 21.

Pertinent also is § 700 of the Code providing: "A person shall not transact any class of insurance business in this State without first being admitted for such class," through securing a certificate of authority from the commissioner on compliance with the code's requirements.

<sup>14</sup> California Insurance Code, Chapter Six. Surplus Line Brokers. §§1760-1779.

Section 1761 reads: "Except as provided in Sections 1760 and 1760.5, a person within this State shall not transact any insurance on property located . . . within, or on the lives or persons of residents of this State, with nonadmitted insurers, except by and through a surplus line broker licensed under this chapter and upon the terms and conditions prescribed in this chapter."

Section 1760 provides: "Any citizen of this State may negotiate and effect insurance on his own property with any nonadmitted insurer," cf. note 20, and § 1760.5 requires specified kinds of insurance, e. g., marine and aircraft risks, to be placed with nonadmitted insurers only through a "special lines" surplus line broker."

By § 1763 a surplus line broker "may solicit and place insurance, other than as excepted in section 1761, with nonadmitted insurers only if such insurance can not be procured from a majority of the insurers admitted for the particular class or classes of insurance. . . . Such part of the insurance as can not be so procured may be procured from nonadmitted insurers," if it is not so placed to secure a lower rate than the lowest any admitted insurer will accept. Stringent provisions for supervising the section's requirements by the commissioner are included.

Other sections require maintaining an office in the state (§ 1767), keeping records and making reports (§§1768, 1769, 1774), and provide criminal sanctions for violating the chapter's provisions, §1776.

See as to surplus line brokers, Patterson, The Insurance Commissioner in the United States (1927) 188-190.

<sup>15</sup> The argument is not only various but somewhat devious. Appellant disclaims intention to maintain that the state cannot "regulate the insurance business" and goes on to rest on the general proposition that it cannot prohibit interstate commerce entirely and that the effect of the statutory provisions, particularly § 10818, see note 13 *supra*, is to do this. As will appear, the argument really comes down to maintaining that California cannot require foreign companies or their agents to comply with her minimum requirements for issuing the type of insurance issued here.

California in effect concedes this, alternatively to maintaining that no question concerning the validity of those provisions is presented. The short effect of the admission provisions, for purposes now pertinent, the state admits, is to forbid either foreign or domestic companies to do a life insurance business in California other than on a legal reserve basis,<sup>16</sup> except as to companies engaged in doing such business there prior to January 1, 1940.<sup>17</sup> The policy underlying this exclusion is said to be founded in the state's experience showing that a mutual company doing business "on the stipulated premium plan with right of assessment,<sup>18</sup> without a sufficient surplus and full reserves is not adequately safeguarded to insure that money will be available to pay death benefits." In support of this statement of California's policy and the experience on which it is founded, counsel point to the Annual Reports of the Insurance Commissioner covering a period of some six years, from 1934 to 1940,<sup>19</sup> which resulted in some of the legislation now called in question. See also X Report of Joint Insurance Investigation Committee (N. Y.) 364-365 (1906); *Hoopston Co. v. Cullen*, 318 U. S. 313, 321.

Furthermore, the state apparently concedes, as appellant contends, not only that the Society is excluded from transacting insurance business by the admission requirements and its failure to comply with them, but also that appellant would be forbidden to place insurance with it by the provisions relating to surplus line insurance, even if he had secured the surplus line broker's license.<sup>20</sup>

As we understand it, therefore, appellant's argument in this phase comes in substance to two things: (1) That the admission requirements and the surplus line broker provisions, as they relate to nonadmitted insurers and their agents, are invalid for discrimination against out-of-state insurers and in favor of domestic ones; (2) that California, as a result of the *South-Eastern* decision, no longer can require foreign insurance corporations seeking to do business there to maintain minimum reserves for protection of policyholders in the state or compel agents or brokers to refrain from representing them there notwithstanding such noncompliance.

The discrimination argument is without substance in so far as it maintains that the status permit domestic companies to operate without meeting these requirements, but forbid out-of-state insurers to do likewise. For, as has been noted,<sup>21</sup> the conditions apply alike to domestic and foreign corporations, excepting only those organized or admitted to do business in California before January 1, 1940. As to them different standards are applicable, but they too apply equally and alike to domestic and foreign insurers.<sup>22</sup>

<sup>16</sup> By § 10510 of the Code, "An incorporated life insurer issuing policies on the reserve basis shall not transact life insurance in this State unless it has a paid-in capital of at least two hundred thousand dollars (\$200,000)." Section 36 defines "paid-in capital" as including the surplus of a mutual insurer. The effect of the two sections, it is conceded in the state's brief, "is to require that a stock company have a capital stock aggregating at least \$200,000 and that a mutual company have a surplus of at least \$200,000 in order to do business in California." Both requirements apply to domestic and foreign companies alike, with the exceptions noted below in note 17.

<sup>17</sup> The exception was the result of a series of amendments to the Code, made from 1935 to 1939, designed gradually to restrict the operations in the state of companies operating without reserves, to enable such companies already engaged in business to build up reserves, and to forbid the organization or admission of new companies operating without them or with reserves below the minimum requirement. See Calif. Stat. 1935, cc. 282, 283, pp. 1002, 657, 667, 678; Stat. 1937, c. 726, p. 2024; Stat. 1939, c. 321, p. 1609. And see also the Annual Reports of the Insurance Commissioner, State of California, as follows: Sixty-sixth, 10-11; Sixty-eighth, XX; Sixty-ninth, XVII; Seventieth, XVIII; Seventy-first, XXIX; Seventy-third, XVII, XXII-XXIII.

<sup>18</sup> The policy issued in this case contained the following provision in small type on the reverse side of the sheet: "The lawfully required portion of Premiums paid on this Certificate shall be set aside into the Mortuary Fund. Premiums necessary to maintain the Certificate in force are not fixed amounts and in event of Premium insufficiency may be adjusted, with the written approval of the Corporation Commission, for the purpose of payment of claims and general operating expenses. In the event of any emergency caused by excessive mortality the Corporation may, with the written consent or at the direction of the Corporation Commission, levy Assessments on Members to be placed in the Mortuary Fund."

<sup>19</sup> See note 17.

<sup>20</sup> See § 1763, quoted in part in note 14, *supra*, and text *infra* at note 30. The type of insurance issued here is not within the exceptions specified in § 1763, which in turn relate to §§ 1760 and 1760.5. The former, it is to be noted, relates on its face only to property insurance; the latter to various special risks, not including mutual assessment insurance, which can be placed only by a "special lines" surplus line broker." See note 14.

<sup>21</sup> See note 13.

<sup>22</sup> *Ibid.*



That the state has seen fit to draw a line as of that date between new companies seeking to enter the field and established companies, differentiating the two classes by different standards in the minimum reserve requirements, in order to permit the latter to continue in business and build up reserves,<sup>23</sup> does not involve any discrimination as between domestic and foreign or interstate and intra-state insurers. For each may be authorized to enter, and each to continue, on identical terms. Such a distinction does not become discriminatory, in any sense now pertinent, merely because the preexisting companies are allowed to continue their business under somewhat less burdensome reserve requirements than those under which new companies are permitted to enter. See X Report of Joint Insurance Investigation Committee (N. Y.) p. 365 (1906). Otherwise the state, having authorized either domestic or foreign companies to engage in the business, would be greatly restricted, perhaps foreclosed, in raising the reserve requirements as experience and the public interest might make necessary.<sup>24</sup>

Apart from this classification, which is clearly within the state's power, the discrimination argument becomes identical with the contention that the state cannot exclude foreign companies, such as the First National Benefit Society, or their agents, from carrying on their business in California for failure to meet her reserve requirements.

This is the crucial contention. It too is without merit. The evils flowing from irresponsible insurers and insurance certainly are not less than those arising from the activities of irresponsible, incompetent or dishonest insurance agents. The two things are concomitant, being merely different facades of the same sepulchre for the investments and security of the public. Cf. Study of Legal Reserve Life Insurance Companies, T. N. E. C. Monograph No. 28, Section XV. It would be idle to require licensing of insurance agents, in order to secure honesty and competence, yet to place no restraint upon the kind of insurance to be sold or the kinds of companies allowed to sell it, and then to cover their representatives with their immunity. This could only result in placing domestic and complying foreign insurers at great disadvantage and eventually in nullifying all controls unless or until Congress should take over the regulation.

No such consequence has followed from the *South-Eastern* decision. It did not wipe out the experience of the states in the regulation of the business of insurance or its effects for the continued validity of that regulation. Much of this was concerned with the activities of so-called foreign insurance companies and, in particular, with requirements designed to secure minimum guaranties of solvency and ability to pay claims as they mature. Essentially the protection sought was against fly-by-night operators and the grosser forms of profiteering and financial mismanagement all so common in unregulated insurance activity. See generally Patterson, *The Insurance Commissioner in the United States* (1927).

It is true that California imposes her reserve standards, for both domestic and foreign insurers, by requiring them to secure a certificate of authority to do business issued upon compliance with those conditions, in other words, by a form of licensing. But we are far beyond the time when, if ever, the word "license" *per se* was a condemnation of state regulation of interstate business done within the state's borders.<sup>25</sup> The commerce involved here is not transportation. Nor is it of a sort which touches the state and its people so lightly that local regulation is inappropriate or interferes unreasonably with the commerce of other states.<sup>26</sup> Not the mere fact or form of licensing, but what the license stands for

<sup>23</sup> See the Reports of the Insurance Commissioner, cited in note 17.

<sup>24</sup> Cf. *Queenside Hills Realty Co. v. Saxl*, No. 769, decided April 22, 1946; *Chicago & Alton R. Co. v. Tranbarger*, 238 U. S. 67; *Chicago, B. & Q. R. Co. v. Nebraska ex rel. Omaha*, 170 U. S. 57.

<sup>25</sup> See *Union Brokerage Co. v. Jensen*, 322 U. S. 202; *Clark v. Paul Gray*, 306 U. S. 583; *Bradley v. Public Utilities Commission*, 289 U. S. 92; *Hendrick v. Maryland*, 235 U. S. 610; *Clark v. Poor*, 274 U. S. 554; *New Mexico ex rel. McLean v. Denver & Rio Grande R. Co.*, 203 U. S. 38.

<sup>26</sup> Cf. *Hale v. Bimco Trading Co.*, 306 U. S. 375; *Baldwin v. Seelig*, 294 U. S. 511; *Hoopeston Co. v. Cullen*, 318 U. S. 313.

by way of regulation is important.<sup>27</sup> So also, it is not simply the fact of prohibition, but what is forbidden and for the protection of what interest, that is determinative. For the commerce clause is not a guaranty of the right to import into a state whatever one may please, absent a prohibition by Congress, regardless of the effects of the importation upon the local community. That is true whether what is brought in consists of diseased cattle<sup>28</sup> or fraudulent or unsound insurance.

Here California's reserve requirements for securing authority to do business cannot be held, either on the face of the statute or by any showing that has been made, to be excessive for the protection of the local interest affected; or designed or effective either to discriminate against foreign or interstate insurers or to forbid or exclude their activities, by all who are able and willing to maintain reasonable minimum reserve standards for the protection of policyholders. Exclusion there is, but it is exclusion of what the state has the power to keep out, until Congress speaks otherwise. Every consideration which supports the licensing of agents and brokers, and the authorities we have cited giving effect to those considerations,<sup>29</sup> sustain the state's requirements in this respect, as do also the decisions which have sustained various measures of exclusion in protection of the public health, safety and security not only from physical harm but from various forms of fraud and imposition.<sup>30</sup>

It is quite obvious, to repeat only one of those considerations, that if appellant's contentions were accepted and foreign insurers were to be held free to disregard California's reserve requirements and then to clothe their agents or others acting for them with their immunity, not only would the state be made helpless to protect her people against the grossest forms of unregulated or loosely regulated foreign insurance, but the result would be inevitably to break down also the system for control of purely local insurance business. In short, the result would be ultimately to force all of the states to accept the lowest standard for conducting the business permitted by one of them or, perhaps, by foreign countries. Inevitably this would mean that Congress would be forced to intervene and displace the states in regulating the business of insurance. Neither the commerce clause nor the *South-Eastern* decision dictates such a result.

We do not intimate that this particular society's insurance is unsound or fraudulent. As to that no showing has been made. We only say that California has imposed its reserve requirements as allowable standards for securing minimum assurance to the state's policyholders in respect to performance of their policies by the insurer, not as a mere exclusionary measure in exercise of the power to bar foreign corporations altogether; and that in the absence of compliance the state can exclude the company and its representatives as it did, until Congress makes contrary command. Their remedy is not to destroy the regulatory reserve conditions, but to comply with them.

It follows also that appellant's objections founded on the provisions relating to the placing of surplus line insurance with nonadmitted insurers are without merit. Apart from the phase relating to the requirements for obtaining the surplus line broker's license, the objection is two-fold. One is that, even if licensed, appellant would be forbidden to place the insurance with a nonadmitted insurer, unless there were no admitted one with which the risk could be written. The other, that in any event the risk could not be placed with the nonadmitted insurer

<sup>27</sup> Cf. authorities cited in note 25.

<sup>28</sup> See, as to state exclusions of and prohibitions on interstate commerce, *Rasmussen v. Idaho*, 181 U. S. 198; *Smith v. St. Louis & S. W. R. Co.*, 181 U. S. 248; *Compagnie Francaise v. State Board of Health*, 186 U. S. 380; *Reid v. Colorado*, 187 U. S. 137; *Oregon-Washington R. R. & Navig. Co. v. Washington*, 270 U. S. 248; *Mintz v. Baldwin*, 289 U. S. 346; *Crossman v. Lurman*, 192 U. S. 189; *Plumley v. Massachusetts*, 155 U. S. 461; *Hennington v. Georgia*, 163 U. S. 299. See also *Kimmish v. Ball*, 129 U. S. 217; *M.-K.-T. R. Co. v. Haber*, 169 U. S. 613; *Carter v. Virginia*, 321 U. S. 131.

<sup>29</sup> See Part I, text.

<sup>30</sup> See note 28.

for a less premium than would be accepted by any admitted insurer. The short answer would seem to be that by the reserve requirements for admission and related prohibitions the state forbids entirely the placing of insurance of the sort issued here whether with domestic, admitted or nonadmitted companies.<sup>31</sup>

It remains to say a word concerning the effect of the McCarran Act for this case and the contentions founded on the Fourteenth Amendment.

As for the latter, with respect to due process, the only objection advanced which is independent of commerce clause considerations, is that to sustain the state's requirements, particularly in so far as they exclude the Society from interstate operations in California and thus also appellant's activities in aid of its business, will be in effect to project California's laws into other states, here presumably Arizona, and regulate the Society's activities there. The contention is obviously without merit. Nothing which California requires touches or affects anything the Society or appellant may do or wish to do in Arizona or elsewhere than in California. *Hoopston Co. v. Cullen, supra.*

Likewise the equal protection contention is wholly without substance.<sup>32</sup>

Our determination has been made without specific reliance upon the McCarran Act for two reasons. One is that this was not necessary. The other arises from the facts that this is a criminal proceeding, the appellant's acts held to violate the California statutes were committed in August following rendition of the *South-Eastern* decision in June of 1944, and the McCarran Act was not approved until March 9, 1945. The effect of that statute we have considered in the *Prudential* case, decided today. But that case involved no criminal or penal phase and therefore no conceivable *ex post facto* effect. It is doubtful that more than the semblance of such an effect would be involved by reliance upon the Act in this case. For it hardly could be maintained that the *South-Eastern* decision had the effect to convert Congress' preexisting silence concerning a matter which prior to the decision had been held not to be commerce into an expression by Congress of disapproval of these provisions of the California Code during the short period intervening between the decision and the date on which appellant acted. The indicated inference, if any, would be to the contrary, wholly without regard to the McCarran Act. Its effect might reasonably be taken as merely declaring or confirming expressly the inference which would be indicated from Congress' silence entirely without reference to the Act's provisions. But the declaration was made, as we have said, after appellant's acts were done. And to avoid any semblance of retroactive effect in a criminal matter, we have refrained from explicit reliance upon the Act in this case. It does not detract from our decision on other grounds that the McCarran Act, if applied, would dictate the same result.

The judgment is

*Affirmed.*

Mr. Justice JACKSON took no part in the consideration or decision of this case.

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Mr. Justice DOUGLAS dissenting in part.

I agree with the Court that the general license requirements which California provides for the insurance agents were constitutional under the decisions of the Court, even prior to the McCarran Act. But prior to that Act California could not under our decisions under the commerce clause exclude an interstate business, at least in absence of a showing that it was a fraudulent enterprise or in an unsound condition. No such showing is made here. The McCarran Act changes that rule; but it should not be allowed to make unlawful what was lawful when done.

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<sup>31</sup> See note 20 and text.

<sup>32</sup> See note 6 and text *infra*.



## APPENDIX "B"

## SUPREME COURT OF THE UNITED STATES.

No. 707.—OCTOBER TERM, 1945.

<p>The Prudential Insurance Company, Appellant, vs. L. George Benjamin, as Insurance Commissioner of the State of South Carolina.</p>	}	<p>Appeal from the Supreme Court of the State of South Carolina.</p>
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[June 3, 1946.]

Mr. Justice RUTLEDGE delivered the opinion of the Court.

This case and *Robertson v. California*, No. 274, decided today, bring not unexpected sequels to *United States v. South-Eastern Underwriters Ass'n*, 322 U. S. 533. In cycle reminiscent conversely of views advanced there and in *Paul v. Virginia*, 8 Wall. 168, claims are put forward on the basis of the *South-Eastern* decision to sustain immunity from state taxation and, in the *Robertson* case, from state regulation of the business of insurance.

The specific effect asserted in this case is that South Carolina no longer can collect taxes from Prudential, a New Jersey corporation, which for years prior to 1945 the state had levied and the company had paid. The tax is laid on foreign insurance companies and must be paid annually as a condition of receiving a certificate of authority to carry on the business of insurance within the state. The exaction amounts to three per cent of the aggregate of premiums received from business done in South Carolina, without reference to its interstate or local character.<sup>1</sup> No similar tax is required of South Carolina corporations.<sup>2</sup>

Prudential insists that the tax discriminates against interstate commerce and in favor of local business, since it is laid only on foreign corporations and is measured by their gross receipts from premiums derived from business done in the state, regardless of its interstate or local character. Accordingly it says the tax cannot stand consistently with many decisions of this Court outlawing state taxes which discriminate against interstate commerce.<sup>3</sup> South Carolina denies that the tax is discriminatory<sup>4</sup> or has been affected by the *South-Eastern* decision. But in any event it maintains that the tax is valid, more particularly in view of

<sup>1</sup> The statutes imposing the tax are §§ 7948 and 7949, South Carolina Code of 1942. Each section in fact imposes a separate tax, the former of two per cent, the latter of one per cent, on gross premium returns "from the State," with provisions under § 7948 for reduction in the amount of the tax scaled to specified investments in South Carolina securities or property. Both taxes are laid "in addition to the annual license fees now provided by law," and are stated in terms to be required "as an additional and graded license fee" (§ 7948) or as "a graduated license fee." § 7949. The two taxes have been treated in combination, for purposes of this litigation, as being in effect a single tax of three per cent.

<sup>2</sup> Sections 7948 and 7949 expressly exempt South Carolina corporations from payment of the tax. They however are subject to other taxes, which Prudential maintains have no bearing upon the issues, other than possibly to demonstrate the discriminatory character and effects of the exaction in issue. See note 36. These are chiefly taxes on real and personal property, incidence of which Prudential largely escapes by the location of its property in other states.

<sup>3</sup> Extending from *Welton v. Missouri*, 91 U. S. 275, to *Nippert v. Richmond*, 326 U. S. —. See the collection of authorities in *McGoldrick v. Berwind-White Co.*, 309 U. S. 33, 56, n. 11.

<sup>4</sup> In apparent reliance not only upon decisions rendered prior to the *South-Eastern* decision or made without reference to its ruling, e. g., *Lincoln National Ins. Co. v. Read*, 325 U. S. 673; *Bethlehem Motors Corp. v. Flynt*, 256 U. S. 421; but indeed also *Paul v. Virginia*, 8 Wall. 168; *Hooper v. California*, 155 U. S. 648; and like authorities.

The state also maintains that Prudential's South Carolina business is not altogether interstate commerce but consists, in substantial part, of local transactions, the aggregate of which measures the tax, for which view it relies upon such diverse decisions as *McGoldrick v. Berwind-White Co.*, 309 U. S. 33; *International Shoe Co. v. Shartel*, 279 U. S. 429; *Western Live Stock v. Bureau of Revenue*, 303 U. S. 250; and *Polish National Alliance v. National Labor Relations Board*, 322 U. S. 643. See note 36 and text.

the McCarran Act,<sup>5</sup> by which it is claimed Congress has consented to continuance of this form of taxation and thus has removed any possible constitutional objection which otherwise might exist. This Prudential asserts Congress has not done and could not do.

The State Supreme Court has held the continued exaction of the tax not to be in violation of the commerce clause or affected by the ruling made in the *South-Eastern* case. — S. C. —; 35 S. E. 2d 586. That holding presents the principal basis for this appeal.

## I.

The versatility with which argument inverts state and national power, each in alternation to ward off the other's incidence,<sup>6</sup> is not simply a produce of protective self-interest. It is a recurring manifestation of the continuing necessity in our federal system for accommodating the two great basic powers it comprehends. For this Court's part, from *Gibbons v. Ogden*, 9 Wheat. 1, no phase of that process has been more continuous or at times perplexing than reconciling the paramount national authority over commerce, created by Article I, § 8 of the Constitution, with appropriate exercise of the states' reserved powers touching the same or related subject matter.<sup>7</sup>

The continuing adjustment has filled many of the great constitutional gaps of Marshall's time and later.<sup>8</sup> But not all of the filling has been lasting. Great emphases of national policy swinging between nation and states in historic conflicts have been reflected, variously and from time to time, in premise and therefore in conclusion of particular dispositions.<sup>9</sup> In turn, their sum has shifted and reshifted the general balance of authority, inevitably producing some anomaly of logic and of result in the decisions.

No phase has had a more atypical history than regulation of the business of insurance. This fact is important for the problems now presented. They have origin in that history. Their solution cannot escape its influence. Moreover, in law as in other phases of living, reconciliation of anomalous behavior, long continued, with more normal attitudes is not always easy, when the time for that adjustment comes.

Essentially the problems these cases tender are of that character. It is not necessary to renew the controversy presented in *South-Eastern*. Whether or not that decision properly has been characterized as "precedent-smashing,"<sup>10</sup> there was a reorientation of attitudes toward federal power in its relation to the business of insurance conducted across state lines. Necessarily this worked in two directions. As the opinion was at pains to note, 322 U. S. 533, 545 ff., no decision previously had held invalid an Act of Congress on the ground that such business was beyond reach of its power, because previously no attempted exercise of that authority had been brought here in litigation. But from *Paul v. Virginia* to

<sup>5</sup> The pertinent portions of the Act are set forth in the text, Part III at note 37.

<sup>6</sup> Cf. *United States v. South-Eastern Underwriters*, 322 U. S. 533, at notes 9 and 23; but see also note 33 for an early and highly authoritative but less mutually exclusive view of the possible alternatives.

<sup>7</sup> Among the volumes which have been written, special reference may be made to Frankfurter, *The Commerce Clause* (1937); Ribble, *State and National Power over Commerce* (1937); Gavit, *The Commerce Clause* (1932); and see Dowling, *Interstate Commerce and State Power* (1940) 27 Va. L. Rev. 1. For thoughtful comment since the *South-Eastern* decision, see Patterson, *The Future of State Supervision of Insurance* (1944) 23 Tex. L. Rev. 18; Note, *Congressional Consent to Discriminatory State Legislation* (1945) 55 Col. L. Rev. 927.

<sup>8</sup> "Judges legislate interstitially and the interstices were great in Marshall's time." Ribble, *State and National Power over Commerce* (1937) 47.

<sup>9</sup> "Lines of demarcation are drawn largely according to the pull of the Court at one period towards the interests of local self-government, and at another in the direction of a nation-wide rule." Frankfurter, *The Commerce Clause* (1937) 97.

<sup>10</sup> S. Rep. No. 1112, 78th Cong., 2d Sess. 2.

*New York Life Ins. Co. v. Deer Lodge County*, 231 U. S. 495, negative implication from the commerce clause was held not to place any limitation upon state power over the business, however conducted with reference to state lines. And correlatively this was taken widely, although not universally, to nullify federal authority until the question was squarely presented and answered otherwise in the *South-Eastern* case.

Whether *Paul v. Virginia* represented in its day an accommodation with or a departure from the preexisting evolution of commerce clause law and whether its ruling, together with later ones adhering to it, remained consonant with the subsequent general development of that law, may still be debated. But all may concede that the *Paul* case created for the business of insurance a special, if not a wholly unique, way of thinking and acting in the regulation of business done across state lines. See Ribble, *State and National Power over Commerce* (1937) 89, 186-187. The aegis of federal commerce power continued to spread over and enfold other business so conducted, in both general and specific legislative exertions. Usually this was with judicial approval; and, despite notable instances of initial hostility, the history of judicial limitation of congressional power over commerce, when exercised affirmatively, has been more largely one of retreat than of ultimate victory.<sup>11</sup> The plain words of the grant have made courts cautious, except possibly in some of the instances noted, about nullifying positive exertions of Congress' power over this broad and hard to define field. At the same time, physical and economic change in the way commerce is carried on has called forth a constantly increasing volume of legislation exercising that power.<sup>12</sup>

Concurrently with this general expansion, however, from *Paul* to *South-Eastern* the states took over exclusively the function of regulating the insurance business in its specific legislative manifestations. Congress legislated only in terms applicable to commerce generally, without particularized reference to insurance. At the same time, on the rationalization that insurance was not commerce, yet was business affected with a vast public interest,<sup>13</sup> the states developed comprehensive regulatory and taxing systems. And litigation of their validity came to be freed of commerce clause objections, at any rate from *Deer Lodge* on to *South-Eastern*. Due process in its jurisdictional aspects remained to confine the reach of state power in relation to business affecting other states.<sup>14</sup> But the negative implications of the commerce clause became irrelevant, as such, for the valid exercise of state regulatory and taxing authority.

Meanwhile the business of insurance experienced a nation-wide expansion graphically depicted not only in the facts of the situation presented in the *South-Eastern* case but also in the operations of Prudential as described by its advo-

<sup>11</sup> E. g., *Hammer v. Dagenhart*, 247 U. S. 251, overruled by *United States v. Darby*, 312 U. S. 100; compare *United States v. E. C. Knight Co.*, 156 U. S. 1, with *United States v. American Tobacco Co.*, 221 U. S. 106; *Schechter Corp. v. United States*, 295 U. S. 495, with *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1. See also discussion in *Wickard v. Filburn*, 317 U. S. 111, 118 ff.

See Ribble, *State and National Power over Commerce* (1937) 63, n. 39, for listing of the decisions invalidating Acts of Congress prior to 1879, noting that Mr. Justice Miller was "but slightly in error" in the statement, in *Trade Mark Cases*, 100 U. S. 82, 96, that one then might count "on his fingers" those decisions.

<sup>12</sup> Beginning in modern phase with enactment of Interstate Commerce Commission and Anti-Trust legislation near the beginning of the present century. The catalogue is now too long to repeat here.

<sup>13</sup> See *German Alliance Ins. Co. v. Kansas*, 233 U. S. 389, 414, 415; *La Tourette v. McMaster*, 248 U. S. 465, 467; *National Union Fire Ins. Co. v. Wanberg*, 260 U. S. 71, 74; cf. *Osborn v. Ozlin*, 310 U. S. 53, 65: "Government has always had a special relation to insurance." See also *United States v. South-Eastern Underwriters Ass'n*, 322 U. S. 533, dissenting opinion at 585.

<sup>14</sup> See *Allgeyer v. Louisiana*, 165 U. S. 578; *New York Life Ins. Co. v. Head*, 234 U. S. 149; *Fidelity & Deposit Co. v. Tafoya*, 270 U. S. 426; *St. Louis Compress Co. v. Arkansas*, 260 U. S. 346; *Hoopston Co. v. Allen*, 318 U. S. 313; *Powell*, The Supreme Court and State Police Power, 1922-1930 (1932) 140 *et seq.*; also *St. Louis Southwestern Ry. Co. v. Alexander*, 227 U. S. 218, with which compare *Henderson*, The Position of Foreign Corporations in American Constitutional Law (1918) c. V. Cf. *Harvester Co. v. Dept. of Treasury*, 322 U. S. 340, concurring opinion, 349, at 353 ff.; and see *International Shoe Co. v. Washington*, 326 U. S. —.



cates in this cause.<sup>15</sup> These divergent facts, legal and economic, necessarily were reflected in state legislation. States grappling with nation-wide, but nationally unregulated, business inevitably exerted their powers to limits and in ways not sought generally to be applied to other business held to be within the reach of the commerce clause's implied prohibition. Obvious and widespread examples are furnished in broad and detailed licensing provisions, for the doing of business within the states, and in connected or distinct taxing measures drawn in apparent reliance upon freedom from commerce clause limitations.<sup>16</sup>

Now we are told many of these statutes no longer can stand. The process of readjustment began affirmatively with *South-Eastern*. Since the commerce clause is a two-edged instrument, the indicated next step, indeed the constitutionally required one, as the argument runs, is to apply its negatively cutting edge. Conceptions so developed with reference to other commerce must now be extended to the commerce of insurance in completion of the readjustment. This, it is confidently asserted, will require striking down much of the state legislation enacted and effective prior to the *South-Eastern* decision. Particularly will this be true of all discriminatory state taxes, of which it is said South Carolina's is one. Moreover, those results must follow regardless of the McCarran Act's provisions. For by that Act, in Prudential's assessment, Congress neither intended to, nor could, validate such taxes.

It is not surprising that the attack is thus broad. When a decision is conceived as precedent-smashing, rightly or wrongly, the conception's invitation may be to greater backtracking than is justified, in spite of warning to proceed with care. 322 U. S. 533, 547 ff.

Prudential's misconception relates not to the necessity for applying, but to the nature and scope of the negative function of the commerce clause. It is not the simple, clean-cutting tool supposed. Nor is its swath always correlative with that cut by the affirmative edge, as seems to be assumed. For cleanly as the commerce clause has worked affirmatively on the whole, its implied negative operation on state power has been uneven, at times highly variable. More often than not, in matters more governable by logic and less by experience, the business of negative implication is slippery. Into what is thus left open for inference to fill, divergent ideas of meaning may be read much more readily than into what has been made explicit by affirmation. That possibility is broadened immeasurably when not logic alone, but large choices of policy, affected in this instance by evolving experience of federalism, control in giving content to the implied negation. In all our constitutional history this has become no more apparent than in commerce clause dispositions.

That the clause imposes some restraint upon state power has never been doubted. For otherwise the grant of power to Congress would be wholly ineffective. But the limitation not only is implied. It is open to different implications of meaning. And this accounts largely for variations in this field continuing

<sup>15</sup> According to Prudential's brief, it transacts business in all forty-eight states and on December 31, 1944, "had in force 33,933,077 policies, insuring approximately 22,900,000 persons, for a total amount of \$22,741,134,075; and 36,733 annuity contracts operative during the lives of approximately 300,000 persons and providing for an annual income of approximately \$63,200,000 on such lives. During the year 1944 the Appellant issued 2,412,150 policies, insuring the lives of approximately 2,170,000 persons, in the total amount of \$2,668,714,022; and entered into 451 annuity contracts operative during the lives of approximately 600 persons and providing for an annual income of approximately \$150,000 on such lives. During the year 1944 the Appellant collected as premiums on insurance policies \$681,052,095.07, and paid out as claims on policies \$246,776,197.45; and it paid out \$13,690,781.93 on annuity contracts."

For South Carolina, the company "had in force 26,373 policies insuring the lives of approximately 20,000 persons resident in said State for a total amount of \$30,827,184.00. During the year ending December 31, 1944, 1,439 policies insuring the lives of approximately 1,000 persons resident in said State for a total amount of \$1,475,062.00 were issued, and \$457,602.28 in claims were paid on policies covering the lives of residents." The South Carolina premium tax for 1943 amounted to \$18,496.87; for 1944, \$19,676.94. All other state or local taxes paid in 1944 amounted to \$3,103.92, making a total for the year for all taxes of \$22,780.86.

<sup>16</sup> 322 U. S. 533, dissenting opinion at 590; see note 40, *infra*; cf. *Robertson v. California*, No. 274, decided today.

almost from the beginning until now.<sup>17</sup> They started with Marshall and Taney, went forward from Waite to Fuller, and have been projected in later differences perhaps less broad, but hardly less controversial.<sup>18</sup> Consequently in its prohibitive, as in its affirmative or enabling, effects the history of the commerce clause has been one of very considerable judicial oscillation.

Moreover, the parallel encompasses the latest turn in the long-run trend. For, concurrently with the broadening of the scope for permissible application of federal authority,<sup>19</sup> the tendency also has run toward sustaining state regulatory and taxing measures formerly regarded as inconsonant with Congress' unexercised power over commerce,<sup>20</sup> and to doing so by a new, or renewed, emphasis on facts and practical considerations rather than dogmatic logic.<sup>21</sup> These facts are of great importance for disposing of such controversies. For in effect they have transferred the general problem of adjustment to a level more tolerant of both state and federal legislative action.

## II.

We are not required however to consider whether, on that level, the authorities on which Prudential chiefly relies would require invalidation of South Carolina's tax. For they are not in point.

As has been stated, they are the cases which from *Welton v. Missouri*, 91 U. S. 275, until now have outlawed state taxes found to discriminate against interstate commerce.<sup>22</sup> No one of them involved a situation like that now here. In each the question of validity of the state taxing statute arose when Congress'

<sup>17</sup> That the question was discussed but not settled in the Constitutional Convention itself, appears from debate on September 15, 1787, two days before submission of the proposed Constitution to Congress, a portion of which bears quotation:

"Mr. McHenry & Mr. Carrol moved that 'no State shall be restrained from laying duties of tonnage for the purpose of clearing harbours and erecting light-houses.'

"Col. Mason in support of this explained and urged the situation of the Chesapeake which peculiarly required expenses of this sort.

"Mr. Govr. Morris. The States are not restrained from laying tonnage as the Constitution now Stands. The exception proposed will imply the Contrary, and will put the States in a worse condition than the gentleman (Col. Mason) wishes.

"Mr. Madison. Whether the States are now restrained from laying tonnage duties depends on the extent of the power 'to regulate commerce.' These terms are vague but seem to exclude this power of the States. — They may certainly be restrained by Treaty. He observed that there were other objects for tonnage duties as the support of Seamen &c. He was more and more convinced that the regulation of Commerce was in its nature indivisible and ought to be wholly under one authority.

"Mr. Sherman. The power of the U. States to regulate trade being supreme can control interferences of the State regulation [when] such interferences happen; so that there is no danger to be apprehended from a concurrent jurisdiction.

"Mr. Langdon insisted that the regulation of tonnage was an essential part of the regulation of trade, and that the States ought to have nothing to do with it. On motion 'that no State shall lay any duty on tonnage without the Consent of Congress.'

"N. H. — ay. Mas. ay. Ct. divd. N. J. ay. Pa. no. Del. ay. Md. ay. Va. no. N-C no. S-C ay. Geo. no. [Ayes — 6; nos — 4; divided — 1.] Farrand, Records of the Federal Constitutional Convention of 1787 (1937), Vol. II, 625-626.

See Note, Congressional Consent to Discriminatory State Legislation (1945) 55 Col. L. Rev. 927, 946 ff., for a short summary of views expressed in the debates and later by members of the Convention. See also Abel, The Commerce Clause in the Constitutional Convention and in Contemporary Comment (1941) 25 Minn. L. Rev. 432; Hamilton and Adair, The Power to Govern (1937).

<sup>18</sup> "The categories of 'burdens' on interstate commerce, of state laws 'directly affecting' commerce, etc., are natural concomitants of Marshall's doctrine. The theories as to the silence of Congress are the outgrowth of Taney's. When diverse theories cohabit, the miscegenation may produce strange progeny." Ribble, 204. For tracings of all but the latest of the various trends, see the summaries cited in note 7; see also Bickel, The Silence of Congress (1927) 41 Harv. L. Rev. 200. More recent diversities are discussed in Dowling, Interstate Commerce and State Power, 27 Va. L. Rev. 1, 8 ff. See also e. g., the different views expressed in *Nippert v. Richmond*, 326 U. S. —; *Southern Pacific Co. v. Arizona*, 325 U. S. 761; *McLeod v. Dilworth Co.*, 322 U. S. 327; *Northwest Airlines v. Minnesota*, 322 U. S. 292; and the opinions in *Hooven & Allison Co. v. Evatt*, 324 U. S. 652. And compare *American Mfg. Co. v. St. Louis*, 250 U. S. 459, with *Adams Mfg. Co. v. Storen*, 304 U. S. 307.

<sup>19</sup> See note 11 and text.

<sup>20</sup> Cf., e. g., *South Carolina State Highway Dept. v. Barnwell Bros.*, 303 U. S. 177; *Western Live Stock v. Bureau of Revenue*, 303 U. S. 250; *McGoldrick v. Berwind-White Co.*, 309 U. S. 33; *Nelson v. Sears, Roebuck & Co.*, 312 U. S. 359; *California v. Thompson*, 313 U. S. 109; *Duckworth v. Arkansas*, 314 U. S. 390; *Union Brokerage Co. v. Jensen*, 322 U. S. 202, 209 ff.

<sup>21</sup> Cf. *Nippert v. Richmond*, 326 U. S. —, —, notes 9 and 23, and authorities cited.

power lay dormant. In none had Congress acted or purported to act, either by way of consenting to the state's tax or otherwise. Those cases therefore presented no question of the validity of such a tax where Congress had taken affirmative action consenting to it or purporting to give it validity. Nor, consequently, could they stand as controlling precedents for such a case.

This would seem so obvious as hardly to require further comment, except for the fact that Prudential has argued so earnestly to the contrary. Its position puts the McCarran Act to one side, either as not intended to have effect toward validating this sort of tax or, if construed otherwise, as constitutionally ineffective to do so. Those questions present the controlling issues in this case. But before we turn to them it will be helpful to note the exact effects of Prudential's argument.

Fundamentally it maintains that the commerce clause "of its own force" and without reference to any action by Congress, whether through its silence<sup>23</sup> or otherwise, forbids discriminatory state taxation of interstate commerce. This is to say, in effect, that neither Congress acting affirmatively nor Congress and the states thus acting coordinately can validly impose any regulation which the Court has found or would find to be forbidden by the commerce clause, if laid only by state action taken while Congress' power lies dormant. In this view the limits of state power to regulate commerce in the absence of affirmative action by Congress are also the limits of Congress' permissible action in this respect, whether taken alone or in coordination with state legislation.

Merely to state the position in this way compels its rejection. So conceived, Congress' power over commerce would be nullified to a very large extent.<sup>24</sup> For in all the variations of commerce clause theory it has never been the law that what the states may do in the regulation of commerce, Congress being silent, is the full measure of its power. Much less has this boundary been thought to confine what Congress and the states acting together may accomplish. So to regard the matter would invert the constitutional grant into a limitation upon the very power it confers.

The commerce clause is in no sense a limitation upon the power of Congress over interstate and foreign commerce. On the contrary, it is, as Marshall declared in *Gibbons v. Ogden*, a grant to Congress of plenary and supreme authority over those subjects. The only limitation it places upon Congress' power is in respect to what constitutes commerce, including whatever rightly may be found to affect it sufficiently to make Congressional regulation necessary or appropriate.<sup>25</sup> This limitation, of course, is entirely distinct from the implied prohibition of the commerce clause. The one is concerned with defining commerce, with fixing the outer boundary of the field over which the authority granted shall govern. The other relates only to matters within the field of commerce, once this is defined, including whatever may fall within the "affectation" doctrine. The one limitation bounds the power of Congress. The other confines only the powers of the states. And the two areas are not coextensive. The distinction is not

<sup>22</sup> See note 3, and compare: "... State laws are not invalid under the Commerce Clause unless they actually discriminate against interstate commerce or conflict with a regulation enacted by Congress." *Gwin, White & Prince v. Henderson*, 305 U. S. 434, dissenting opinion at 446.

"... except for State acts designed to impose discriminatory burdens on interstate commerce because it is interstate—Congress alone must 'determine how far [interstate commerce] . . . shall be free and untrammelled, how far it shall be burdened by duties and imposts and how far it shall be prohibited.'" *Id.* at 455.

See also, for essentially the same position, *Adams Mfg. Co. v. Storen*, 304 U. S. 307, dissenting opinion; *Southern Pac. Co. v. Arizona*, 325 U. S. 761, dissenting opinion at 795.

<sup>23</sup> See note 18.

<sup>24</sup> Thus, for instance, the limitations upon the length of trains imposed by the Arizona Train Limit Law, and held to be in violation of the commerce clause in *Southern Pacific Co. v. Arizona*, 325 U. S. 761, would be beyond the power of Congress, perhaps also of Congress and the states acting together, to impose; and on commerce clause grounds, thus nullifying the very power conferred in order to regulate such matters. The argument is reminiscent of that of Mr. Justice McLean in the second *Wheeling Bridge* case, cf. note 34.

<sup>25</sup> Cf. note 11 and text.



always clearly observed, for both questions may and indeed at times do arise in the same case and in close relationship.<sup>26</sup> But to blur them, and thereby equate the implied prohibition with the affirmative endowment is altogether fallacious. There is no such equivalence.

This appears most obviously perhaps in the cases most important for the decision in this cause. They are the ones involving situations where the silence of Congress or the dormancy of its power has been taken judicially, on one view or another of its constitutional effects,<sup>27</sup> as forbidding state action, only to have Congress later disclaim the prohibition or undertake to nullify it.<sup>28</sup> Not yet has this Court held such a disclaimer invalid or that state action supported by it could not stand. On the contrary in each instance it has given effect to the Congressional judgment contradicting its own previous one.<sup>29</sup>

It is true that rationalizations have differed concerning those decisions,<sup>30</sup> indeed also that the judges participating in them differed in this respect.<sup>31</sup> But the results have been lasting and are at least as important, for the direction given to the process of accommodating federal and state authority, as the reasons stated for reaching them. None of the decisions conceded, because none involved any question of, the power of Congress to make conclusive its own mandate concerning what is commerce. But apart from that function of defining the outer boundary of its power, whenever Congress' judgment has been uttered affirmatively to contradict the Court's previously expressed view that specific action taken by the states in Congress' silence was forbidden by the commerce clause, this body has accommodated its previous judgement to Congress' expressed approval.

Some part of this readjustment may be explained in ways acceptable on any theory of the commerce clause and the relations of Congress and the Courts toward its functioning.<sup>32</sup> Such explanations, however, hardly go to the root of the matter. For the fact remains that, in these instances, the sustaining of Congress' overriding action has involved something beyond correction of erroneous factual judgment in deference to Congress' presumably better-informed view of the facts,<sup>33</sup> and also beyond giving due deference to its conception of the scope

<sup>26</sup> See the argument for the plaintiff in error in *Paul v. Virginia*, 8 Wall. 168, 172, 173, as a classic instance.

<sup>27</sup> Cf. note 18. See also the discussions cited in note 7.

<sup>28</sup> Legislation which, typically, has presented the problem is found in a variety of measures, of which the Wilson Act, 26 Stat. 313, is the prototype. Earlier legislation presenting the difficulty was that involved in the second of the *Wheeling Bridge* cases, *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How. 421. See note 43 for further citations.

<sup>29</sup> *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 13 How. 518, with which compare *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How. 421, and *The Clinton Bridge*, 10 Wall. 454; *Leisy & Co. v. Hardin*, 135 U. S. 100, with which compare *In re Rahrer*, 140 U. S. 545; *Bowman v. Chicago & Northwestern Ry.*, 125 U. S. 465, with which compare *Clark Distilling Co. v. Western Maryland Ry.*, 242 U. S. 311.

<sup>30</sup> See, e. g., *Ribble*, at 62, 106, and other materials cited above in note 7.

<sup>31</sup> For the modern record it is interesting to note that in the first *Bridge* case Justice McLean spoke for the Court, Chief Justice Taney and Justice Daniel dissenting in separate opinions, and the same division prevailed in the further opinions filed upon consideration of the master's report and entry of the decree. In the second *Bridge* case Justice Nelson spoke for the Court, with Justices McLean, Grier, Wayne and Daniel each filing separate opinions dissenting on one or more of the issues presented.

<sup>32</sup> Thus, in some instances conceivably the reversal might be rationalized as only one of factual judgment, made in deference to the contrary finding of like character made by a body better able to make such a determination. Moreover, Congress' supporting action deprives the Court's adverse view concerning state legislation of any strength which may have been derived from the inference that Congress, by its silence, had impliedly forbidden it. Hence insofar as its judgment may be taken, not as conclusive, but as being entitled to deference here on questions relating to its power (and historically the scope of that deference has been great, cf. note 11), Congress' explicit repudiation of the attitude inferentially attributed to it from its silence, compels reversal of the Court's earlier pronounced view.

<sup>33</sup> In the first *Wheeling Bridge* case the Court itself made the finding, upon evidence taken by a master, that the bridge in fact obstructed navigation, to which it added the legal conclusion that it was a public nuisance, and went on to specify the height to which it must be raised to avoid this effect. Not only this finding of fact, therefore, but also the legal conclusion drawn from it was, in effect, overturned by the Act of Congress. See note 34. The finding of obstruction in fact depended in no sense upon previous determination by Congress. But the Court found in Congress' prior legislation a policy of freedom for navigation which it applied to outlaw the bridge.

of its powers, when it repudiates, just as when its silence is thought to support, the inference that it has forbidden state action.<sup>34</sup>

Prudential has not squarely met this fact. Fixed with the sense of applicability of the *Welton* or *Shelby County* line of cases, it rather has posed an enigma for the bearing of the Bridge and liquor cases upon the decision to be made. It is, if the commerce clause "by its own force" forbids discriminatory state taxation, or other measures, how is it that Congress by expressly consenting can give that action validity?

The answer need not be labored. Prudential in this case makes no contention that commerce is not involved. Its argument is exactly the opposite. Its contention founded on the commerce clause is one wholly of implied prohibition within the field of commerce.

This it regards as operative not only in Congress' silence, but in the face of its positive expression by the McCarran Act that the continued regulation and taxation by the states of the business of insurance is in accord with Congress' policy. That expression raises questions concerning its own validity and also concerning whether the policy stated extends to the kind of state legislation which is immediately in issue. But those questions are not answered, as Prudential seeks to have them answered, by any conception that Congress' declaration of policy adds nothing to the validity of what the states have done within the area covered by the declaration or, in other words, that it is mere *brutum fulmen*. For to do this not only would produce intolerable consequences for restricting Congress' power. It would ignore the very basis on which the second *Wheeling Bridge* case and indeed the *Clark Distilling* case have set the pattern of the law for governing situations like that now presented.<sup>35</sup> Accordingly we turn to the issues which are more alive and significant for the future.

### III.

In considering the issues raised by the McCarran Act and the question of its applicability, ground may be cleared by putting aside some matters strenuously argued in the state supreme court and here. First, it follows from what has been said that we are not required to determine whether South Carolina's tax would be valid in the dormancy of Congress' power. For Congress has expressly stated its intent and policy in the Act. And, for reasons to be stated, we think that the declaration's effect is clearly to sustain the exaction and that this can be done without violating any constitutional provision.

By the same token, we need not consider whether the tax, if operative in Congress' unilluminated silence, would be discriminatory in the sense of an exaction forbidden by the commerce clause, as Prudential categorically asserts, or not so, as South Carolina maintains with equal certitude. Much attention has been given both here and in the state court to these questions. But in the view we take of the case the controlling issues undercut them. Nor do we determine, as Prudential's argument seems to subsume, whether all of its business done in South

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<sup>34</sup> See note 33. "So far, therefore, as this bridge created an obstruction to the free navigation of the river, in view of the previous acts of Congress, they are to be regarded as modified by this subsequent legislation; and, although it still may be an obstruction in fact, is not so in the contemplation of law. . . . The regulation of commerce includes intercourse and navigation, and, of course, the power to determine what shall or shall not be deemed in judgment of law an obstruction to navigation." Mr. Justice Nelson, speaking for the Court, in the second *Wheeling Bridge* case, 18 How. 421, 430, 431.

Compare the dissenting opinion of Mr. Justice McLean, who wrote for the majority in the first *Wheeling Bridge* case, going not only on the ground, among others, that the Act of Congress invaded the judicial function, but also that the Act, apart from its effect, was unconstitutional: "It [Congress] may, under this power, declare that no bridge shall be built which shall be an obstruction to the use of a navigable water. And this, it would seem, is as far as the commercial power of Congress can be exercised." 18 How. at 442. Thus was the grant of authority to Congress upon which he relied in the first decision, in part, to outlaw the bridge, converted into a limitation. Cf. text *infra*, Part IV, at note 49 ff.

<sup>35</sup> Cf. note 29 and text. And see Part IV.

Carolina and affected by the tax should be regarded as constituting interstate commerce so as to fall within the "in commerce" classification or, on the other hand, some of it may properly be considered as being only local or intrastate business.<sup>36</sup> These questions we put to one side. And for present purposes we assume that the tax would be discriminatory in the sense of Prudential's contention and that all of its business done in South Carolina and affected by the tax is done "in" or as a part of interstate commerce.

It is not necessary to spend much time with interpreting the McCarran Act. Pertinently it is as follows:

Sec. 1. The Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance. . . . 59 Stat. 34; 15 U. S. C. §§ 1011-1015.<sup>37</sup>

Obviously Congress' purpose was broadly to give support to the existing and future state systems for regulating and taxing the business of insurance. This was done in two ways. One was by removing obstructions which might be thought to flow from its own power, whether dormant or exercised, except as otherwise expressly provided in the Act itself or in future legislation.<sup>38</sup> The other was by declaring expressly and affirmatively that continued state regulation and taxation of this business is in the public interest and that the business and all who engage in it "shall be subject to" the laws of the several states in these respects.

Moreover, in taking this action Congress must have had full knowledge of the nation-wide existence of state systems of regulation and taxation; of the fact that they differ greatly in the scope and character of the regulations imposed and of the taxes exacted; and of the further fact that many, if not all, include features which, to some extent, have not been applied generally to other interstate business. Congress could not have been unacquainted with these facts and its purpose was evidently to throw the whole weight of its power behind the state systems, notwithstanding these variations.

<sup>36</sup> Whether within or without the "affectation" doctrine. Cf. *United States v. South-Eastern Underwriters Ass'n*, 322 U. S. 533, 548, and authorities cited.

In making these assumptions, however, it is not improper to note that the record, as made in the state court, does not purport to deal factually with the latter question as a matter of proof. It is simply alleged that all of Prudential's South Carolina business is done interstate, an allegation which is denied; and there are supporting allegations concerning the extent of the business and manner of conducting it.

Nor is the case in much better shape factually on the question of discrimination. While the briefs include tables of figures designed to show that Prudential pays more proportionately under the tax than South Carolina corporations pay under other taxes levied against them, cf. note 2, these figures were not made part of the record in the state court until the petition for rehearing was filed, and Prudential has insisted both there and here that they have no proper place in consideration of the questions presented. Its position is that the tax is discriminatory on the face of the statute and without reference to other taxes South Carolina corporations may pay. Cf. note 4.

We express no opinion concerning whether such a showing, in either respect, would be sufficient to require determination of the issues to which it is directed, tendered in the absence of action by Congress.

<sup>37</sup> The remainder of the statute, including a proviso to § 2(b), relates to applicability of the Sherman Act and other related federal statutes to the business of insurance before and after January 1, 1948; provides that the McCarran Act shall not affect in any manner the application to that business of the National Labor Relations Act, the Fair Labor Standards Act or the Merchant Marine Act of 1920; extends the term "State" as used in the Act to include specified territories and the District of Columbia; and provides for severability.

<sup>38</sup> See note 37.



It would serve no useful purpose now to inquire whether or how far this effort was necessary, in view of the explicit reservations made in the majority opinion in the *South-Eastern* case. Nor is it necessary to conclude that Congress, by enacting the McCarran Act, sought to validate every existing state regulation or tax. For in all that mass of legislation must have lain some provisions which may have been subject to serious question on the score of other constitutional limitations in addition to commerce clause objections arising in the dormancy of Congress' power. And we agree with Prudential that there can be no inference that Congress intended to circumvent constitutional limitations upon its own power.

But, though Congress had no purpose to validate unconstitutional provisions of state laws, except in so far as the Constitution itself gives Congress the power to do this by removing obstacles to state action arising from its own action or by consenting to such laws, H. Rep. No. 143, 79th Cong., 1st Sess., p. 3, it clearly put the full weight of its power behind existing and future state legislation to sustain it from any attack under the commerce clause to whatever extent this may be done with the force of that power behind it, subject only to the exceptions expressly provided for.

Two conclusions, corollary in character and important for this case, must be drawn from Congress' action and the circumstances in which it was taken. One is that Congress intended to declare, and in effect declared, that uniformity of regulation, and of state taxation,<sup>39</sup> are not required in reference to the business of insurance, by the national public interest, except in the specific respects otherwise expressly provided for. This necessarily was a determination by Congress that state taxes, which in its silence might be held invalid as discriminatory, do not place on interstate insurance business a burden which it is unable generally to bear or should not bear in the competition with local business. Such taxes were not uncommon among the states,<sup>40</sup> and the statute clearly included South Carolina's tax now in issue.

That judgment was one of policy and reflected long and clear experience. For, notwithstanding the long incidence of the tax and its payment by Prudential without question prior to the *South-Eastern* decision, the record of Prudential's continuous success in South Carolina over decades<sup>41</sup> refutes any idea that payment of the tax handicapped it in any way tending to exclude it from competition with local business or with domestic insurance companies. Indeed Prudential makes no contrary contention on any factual basis, nor could it well do so. For the *South-Eastern* decision did not, and could not, wipe out all this experience or its weight for bearing, as a matter of the practical consequences resulting from operation of the tax, upon that question. *Robertson v. United States*, No. 274, decided today.

Consequently Prudential's case for discrimination must rest upon the idea either that the commerce clause forbids the state to exact more from it in taxes

<sup>39</sup> There is, of course, no constitutional requirement that state taxes must be uniform, in the sense of that requirement as laid upon the federal taxing power by the first clause of Article I, § 8. Nor has it ever been held that such a requirement is made by the commerce clause or any other constitutional provision. This is a different thing entirely from the strictures against discrimination within or by a state laid under the equal protection and commerce clauses.

The McCarran Act is, in effect, a determination by Congress that the business of insurance, though done in interstate commerce, is not of such a character as to require uniformity of treatment within the distinction taken in the doctrine of *Cooley v. Board of Wardens*, 12 How. 299, except as otherwise expressly declared.

<sup>40</sup> As of the effective date of the McCarran Act, sixteen states had imposed on "foreign" life insurance companies taxes substantially similar to the South Carolina tax in issue. Ala. Code (1940) tit. 51, §§ 816, 819; Fla. Stat. (1941) § 205.43(1), (6); Ill. Rev. Stat. (1943) c. 73, § 1021; Ind. Stat. Ann. (Burns, 1940) § 39-4802; Kan. Gen. Stat. Ann. (Corrick, 1935) § 40-252; Ky. Rev. Stat. (1944) 136.330; La. Gen. Stat. (Dart, 1939) § 8369; Mich. Comp. Laws (1929) § 12387; Mo. Rev. Stat. (1939) § 6094; Neb. Rev. Stat. (1943) § 77-902; N. M. Stat. Ann. (1941) § 60-401; N. D. Comp. Laws (1913) § 4924; Ohio Code Ann. (Throckmorton, 1940) § 5433; Pa. Stat. Ann. (Purdon, 1930) tit. 72, § 2261; S. C. Code Laws (1942) §§ 7948, 7949; Tex. Civ. Stat. (Vernon, 1925) Art. 4769.

We express no opinion concerning the validity of any feature of these statutes not substantially identical with those of the South Carolina tax dealt with herein.

<sup>41</sup> Prudential was first authorized to do business in South Carolina in 1897 and since that time it has received annual renewals of its license. As to the present scope of its business in South Carolina and in all the states, see note 15.

than from purely local business; or that the tax is somehow technically of an inherently discriminatory character or possibly of a type which would exclude or seriously handicap new entrants seeking to establish themselves in South Carolina. As to each of these grounds, moreover, the argument subsumes that Congress' contrary judgment, as a matter of policy relating to the regulation of interstate commerce, cannot be effective, either "of its own force" alone or as operative in conjunction with and to sustain the state's policy.

#### IV.

In view of all these considerations, we would be going very far to rule that South Carolina no longer may collect her tax. To do so would flout the expressly declared policies of both Congress and the state. Moreover it would establish a ruling never heretofore made and in doing this would depart from the whole trend of decision in a great variety of situations most analogous to the one now presented. For, as we have already emphasized, the authorities most closely in point upon the problem are not, as appellant insists, those relating to discriminatory state taxes laid in the dormancy of Congress' power. They are rather the decisions which, in every instance thus far not later overturned,<sup>42</sup> have sustained coordinated action taken by Congress and the states in the regulation of commerce.<sup>43</sup>

The power of Congress over commerce exercised entirely without reference to coordinated action taken by the states is not restricted, except as the Constitution expressly provides,<sup>44</sup> by any limitation which forbids it to discriminate against interstate commerce and in favor of local trade. Its plenary scope enables Congress not only to promote but also to prohibit interstate commerce, as it has done frequently and for a great variety of reasons.<sup>45</sup> That power does not run down a one-way street or one of narrowly fixed dimensions. Congress may keep the way open, confine it broadly or closely, or close it entirely, subject only to the restrictions placed upon its authority by other constitutional provisions and the requirement that it shall not invade the domains of action reserved exclusively for the states.

This broad authority Congress may exercise alone, subject to those limitations, or in conjunction with coordinated action by the states,<sup>46</sup> in which case limitations imposed for the preservation of their powers become inoperative and only those designed to forbid action altogether by any power or combination of powers

<sup>42</sup> Cf. *Ashton v. Cameron County District*, 298 U. S. 513, which may be said in effect to have been overruled by *United States v. Bekins*, 304 U. S. 27. See Jackson, *The Struggle for Judicial Supremacy* (1941) 240-241.

<sup>43</sup> See *Carmichael v. Southern Coal Co.*, 301 U. S. 495; *Steward Machine Co. v. Davis*, 301 U. S. 548; *Kentucky Whip & Collar Co. v. Illinois Central R. Co.*, 299 U. S. 334; *Clark Distilling Co. v. Western Maryland Ry. Co.*, 242 U. S. 311; *Whitfield v. Ohio*, 297 U. S. 431; *In re Rahrer*, 140 U. S. 545; *Perkins v. Pennsylvania*, 314 U. S. 586; *Standard Dredging Co. v. Murphy*, 319 U. S. 306, 308; *International Shoe Co. v. Washington*, 66 Sup. Ct. 154, 157-158; cf. *Parker v. Richard*, 250 U. S. 235, 238-239. See generally Koenig, *Federal and State Cooperation under the Constitution* (1938) 36 Mich L. Rev. 752.

<sup>44</sup> *North American Co. v. Securities and Exchange Commission*, 327 U. S. —, —; *United States v. Darby Lumber Co.*, 312 U. S. 100, 114-115; *Gibbons v. Ogden*, 9 Wheat. 1, 196. For example, the provisions of Article I, § 9, forbidding the giving of preferences "by any Regulation of Commerce or Revenue to the Ports of one State over those of another"; and commanding that "No Tax or Duty shall be laid on Articles exported from any State," held applicable only to foreign commerce in *Dooley v. United States*, 183 U. S. 151.

But compare the further provision of Article I, § 9, empowering Congress to consent to laying of duties or imposts on exports by the states. See also note 47.

<sup>45</sup> E. g., *Reid v. Colorado*, 187 U. S. 137; *Champion v. Ames*, 188 U. S. 321; *Hipolite Egg Co. v. United States*, 220 U. S. 45; *Hoke v. United States*, 227 U. S. 308; *United States v. Darby Lumber Co.*, 312 U. S. 100, overruling *Hammer v. Dagenhart*, 247 U. S. 251.

<sup>46</sup> See cases cited in notes 29 and 43.

<sup>47</sup> It is perhaps impossible to point with certainty to any such explicit limitation among the various commerce clauses of the Constitution, for decision in the application of such provisions to such a combined exercise of powers is sparse. See, however, the discussion in *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How. 421, 433 *et seq.*, relating to the clause of Article I, § 9, providing: "No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear or pay Duties in another."

There can be no doubt that the combined exercise of state and federal authority is limited, to some but largely undefined extent, by other constitutional prohibitions or the combined effects of more than

in our governmental system remain effective.<sup>47</sup> Here both Congress and South Carolina have acted, and in complete coordination, to sustain the tax. It is therefore reinforced by the exercise of all the power of government residing in our scheme.<sup>48</sup> Clear and gross must be the evil which would nullify such an exertion, one which could arise only by exceeding beyond cavil some explicit and compelling limitation imposed by a constitutional provision or provisions designed and intended to outlaw the action taken entirely from our constitutional framework.

In this light the argument that the degree of discrimination which South Carolina's tax has involved, if any, puts it beyond the power of government to continue must fall of its own weight. No conceivable violation of the commerce clause, in letter or spirit, is presented. Nor is contravention of any other limitation.

A word should be added in the latter respect. Prudential has not urged grounds founded upon other constitutional provisions than the commerce clause, except in relation to the McCarran Act and then only in the event it should be construed as having effect to validate continued exaction of the tax. As has been said, it regards the statute as neither intended nor effective to "validate, authorize, or sanction state statutes which discriminate against interstate commerce." But, against the event that the Act should be taken as intended to have such an effect, it puts forward the somewhat novel contentions that the statute would be in violation of the due process clause of the Fifth Amendment; of the first clause of Article I, § 8, requiring that "all Duties, Imposts and Excises shall be uniform throughout the United States"; of Article I, § 1, "which requires legislation to be enacted by Congress"; and, apparently of the Tenth Amendment, "as a violation of the states' power to tax for purposes of raising revenue *for their own use*, which power is vested exclusively in the states."<sup>49</sup>

These arguments may be summarily disposed of. As for the due process con-

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one. Cf. text herein at note 49 *et seq.* But apart from the provision of Article I, § 9, above quoted as a possible exception, the specific limitations placed upon the commerce power or state power in relation to commerce expressly provide for joint action to be effective. Thus, this is true with reference to laying of duties on exports by the states with the consent of Congress, Art. I, § 10, notwithstanding the prohibition of such action by Congressional action alone, Art. I, § 9, and of course by state action alone. Art. I, § 10. And note the further provision that: "No State shall, without the Consent of Congress, lay any Duty of Tonnage," as to which see also note 17 above.

It was thus expressly contemplated, in some instances, that the combined exercise of the powers of Congress and the states should be free from restrictions expressly applicable to each when exerted in isolation. It is true that some of these provisions have been held applicable only to foreign commerce, e. g., the prohibition of Article I, § 10, against levy of duties on imports or exports without Congress' consent. *Woodruff v. Parham*, 8 Wall. 123; *American Steel & Wire Co. v. Speed*, 192 U. S. 500, 519, *et seq.*; but see *Brown v. Maryland*, 12 Wheat. 419. But others apply to coastwise trade, indeed to trade between towns in the same state, in other words to intrastate commerce. *State Tonnage Tax Cases*, 12 Wall. 204, 219 and see *Pennsylvania v. Wheeling and Belmont Bridge Co.*, *supra*; *Louisiana Pub. Ser. Comm. v. Texas & N. O. R. Co.*, 284 U. S. 125; cf. *Williams v. United States*, 255 U. S. 336; and see also *United States v. The William*, 28 Fed. Cas. No. 16,700.

All these provisions are intimately and expressly related to the commerce power. Notwithstanding their diversities, in application to interstate and foreign commerce or both, and also to federal and state power or their combined operation, no conclusion can be drawn from them that our constitutional policy was, or is, to give Congress and the states acting together broad powers, in some instances denied to each acting alone, in relation to foreign commerce, but to deny such authority altogether in reference to interstate commerce. Indeed the opposite conclusion is clearly indicated, both by virtue of express provision where applicable and by strong inference where not expressly forbidden.

<sup>48</sup> The ruling is not new or only recent. "We have already said, and the principle is undoubted, that the Act of the Legislature of Virginia conferred full authority to erect and maintain a bridge, subject to the exercise of the power of Congress to regulate the navigation of the river. That body having, in the exercise of this power, regulated the navigation consistent with its preservation and continuation, the authority to maintain it would seem to be complete. That authority combines the concurrent powers of both governments, state and federal, which, if not sufficient, certainly none can be found in our system of government." *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How. 421, 430. Compare this with Mr. Justice McLean's dissenting view, note 34 above.

<sup>49</sup> The contentions are stated in appellant's brief as follows: "If it be assumed that the McCarran-Ferguson Act is an adoption by Congress of legislation of the states, then the Act is unconstitutional (1) as a violation of the due process clause of Fifth Amendment to the Constitution, (2) as a violation of Article I, Section 8, Clause 1 of the Constitution which requires that excises shall be uniform throughout the United States in the exercise by Congress of its taxing power, (3) as a violation of Article I, Section 1 of the Constitution which requires legislation to be enacted by Congress, and (4) as a violation of the states' power to tax for purposes of raising revenue *for their own use*, which power is vested exclusively in the states."



tention, it was settled by a long line of authorities prior to the *South-Eastern* decision, that the similar provision of the Fourteenth Amendment, as well as that requiring equal protection of the laws, does not forbid the states to lay and collect such a tax as South Carolina's.<sup>50</sup> Certainly the Fifth Amendment does not more narrowly confine the power of Congress; nor do it and the Fourteenth taken together accomplish such a restriction upon the coordinated exercise of power by the Congress and the states.

The argument grounded upon the first clause of Article I, § 8, requiring that excises shall be uniform throughout the United States, identifies the state taxation with the laying of an excise by Congress, to which alone the limitation applies. This is done on the theory that no more has occurred than that Congress has "adopted" the tax as its own, a conception which obviously ignores the state's exertion of its own power and, furthermore, seeks to restrict the coordinated exercise of federal and state authority by a limitation applicable only to the federal taxing power when it is exerted without reference to any state action.<sup>51</sup> The same observation applies also to the contention based on Article I, § 1.

The final contention that to sustain the Act, and thus the tax, would be an invasion of the state's own power of taxation is so clearly lacking in merit as to call for no comment other than to point out that, by juxtaposition with the contentions discussed in the preceding paragraph, the effect would be at one stroke to bring the Act into collision with limitations operative only upon the federal power and at the same time to nullify state authority.

No such anomalous consequence follows from the division of legislative power into the respective spheres of federal and state authority. There are limitations applicable to each of these separately and some to their coordinated exercise. But neither the former nor the latter are to be found merely in the fact that the authority is thus divided. Such a conception would reduce the joint exercise of power by Congress and the states to achieve common ends in the regulation of our society below the effective range of either power separately exerted, without basis in specific constitutional limitation or otherwise than in the division itself.<sup>52</sup> We know of no grounding, in either constitutional experience or spirit, for such a restriction. For great reasons of policy and history not now necessary to restate, these great powers were separated. They were not forbidden to cooperate or by doing so to achieve legislative consequences, particularly in the great fields of regulating commerce and taxation, which, to some extent at least, neither could accomplish in isolated exertion.<sup>53</sup>

We have considered appellant's other contentions, including the suggestion that the McCarran Act, construed as we have interpreted it and thus given effect, would involve an unconstitutional delegation by Congress of its power to the states. For reasons already set forth and others, including the fact that no instance of delegation is involved on the facts, we find them without merit.

The judgment accordingly is

*Affirmed.*

Mr. Justice BLACK concurs in the result.

Mr. Justice JACKSON took no part in the consideration or decision of this case.

<sup>50</sup> "... It has never been held that a State may not exact from a foreign insurance corporation as a condition to admission to do business the payment of a tax measured by the business done within its borders." *Lincoln National Life Ins. Co. v. Read*, 325 U. S. 673, 677. See *Ducat v. Chicago*, 10 Wall. 410; *Fire Assn. of Philadelphia v. New York*, 119 U. S. 110; *Hanover Fire Ins. Co. v. Harding*, 272 U. S. 494; *Continental Assurance Co. v. Tennessee*, 311 U. S. 5. See discussion in *Henderson, The Position of Foreign Corporations in American Constitutional Law* (1918) 101 ff.

<sup>51</sup> The related contention that Congress' "adoption" of South Carolina's statute amounts to an unconstitutional delegation of Congress' legislative power to the states obviously confuses Congress' power to legislate with its power to consent to state legislation. They are not identical, though exercised in the same formal manner. See *Clark Distilling Co. v. Western Maryland Ry. Co.*, 242 U. S. 311, 327.

<sup>52</sup> "It would be a shocking thing, if state and federal governments acting together were prevented from achieving the end desired by both, simply because of the division of power between them." *Ribble*, 211. And see note 48.

<sup>53</sup> Cf. note 47.

## APPENDIX "C"

REPORT OF THE SUB-COMMITTEE OF THE COMMITTEE ON  
RATES AND RATING ORGANIZATIONS

NEW YORK, N. Y.

MAY 22-23, 1946

*History*

In view of the action taken at the meeting of the Sub-Committee at New York City on May 17 and 18, 1946, it is essential that the Sub-Committee at the outset of this report summarize the activities of the Committee on Rates and Rating Organizations since the meeting held at New York City on May 11-14, 1945. At that meeting steps were taken which resulted in the formation of the All-Industry Committee, to which reference will be made later in this report, and the establishment of a liaison between that committee, representing the industry, and this committee, representing the National Association of Insurance Commissioners.

Since that time the Committee on Rates and Rating Organizations or its Sub-Committee, as the case may be, has met at the following places and on the following dates:

New York, N. Y.	—	March 8-10, 1945
New York, N. Y.	—	May 11-14, 1945
St. Paul, Minn.	—	June 4-8, 1945
New York, N. Y.	—	August 8-9, 1945
New York, N. Y.	—	September 19-20, 1945
Chicago, Ill.	—	October 27 to November 3, 1945
New York, N. Y.	—	November 14-17, 1945
Grand Rapids, Mich.	—	December 1-6, 1945
New York, N. Y.	—	January 17-18, 1946
New York, N. Y.	—	January 23-25, 1946
French Lick, Ind.	—	March 11-15, 1946
Chicago, Ill.	—	April 23-26, 1946
Atlantic City, N. J.	—	April 29 to May 2, 1946
New York, N. Y.	—	May 17-18, 1946
New York, N. Y.	—	May 22-23, 1946

These meetings consumed 56 days, exclusive of traveling time to and from the places of meeting, and do not include time spent in research and study. All of the meetings were devoted to the task of preparing two rating laws — a casualty and surety rate regulatory bill and a fire, marine and inland marine rate regulatory bill.

At the same time that your Committee was conducting its work and studies parallel studies were being conducted by the All-Industry Committee. This committee represented the following segments of the business:

American Institute of Marine Underwriters  
 American Mutual Alliance  
 American Life Convention  
 American Reciprocal Association  
 Associated Factory Mutual Fire Insurance Companies  
 Association of Casualty and Surety Executives

Bureau of Personal Accident and Health Underwriters  
Health & Accident Underwriters Conference  
Insurance Executives Association  
Inland Marine Underwriters Association  
Life Insurance Association of America  
National Association of Casualty and Surety Agents  
National Association of Independent Insurers  
National Association of Insurance Agents  
National Association of Mutual Insurance Agents  
National Association of Insurance Brokers  
National Board of Fire Underwriters  
National Fraternal Congress of America  
Surety Association of America

The All Industry Committee appointed a Conference Committee to confer with this Sub-Committee with a view towards devising bills which would be acceptable to the National Association of Insurance Commissioners and to the industry. This Conference Committee consists of the following organizations:

American Mutual Alliance  
Association of Casualty and Surety Executives  
National Association of Independent Insurers  
National Association of Insurance Brokers  
National Board of Fire Underwriters

Detailed reports were prepared by your Committee as to what transpired at each meeting. Those reports covering activities prior to the meeting of the National Association of Insurance Commissioners at Grand Rapids, Michigan in December, 1945 are incorporated in the permanent records of the Association. Those reports covering meetings since that date will be submitted to the Association as a part of this report at its meeting in Portland, Oregon in June, 1946 for adoption and, if adopted, will likewise be incorporated in the permanent records of the Association.

At the meeting of your Committee held at French Lick, Indiana on March 11-14, 1946 a resolution was adopted empowering the Sub-Committee of the Committee on Rates and Rating Organizations, which up until that time had been acting as a drafting sub-committee, "to take such action as it may determine in connection with the completion of the drafting of rate regulatory legislation" (see report of Committee on Rates and Rating Organizations, French Lick, Indiana, March 11-14, 1946).

At the meeting in New York City on May 17 and 18, 1946 the Sub-Committee, acting for the full Committee under the resolution adopted at French Lick, succeeded in reconciling the remaining areas of disagreement with the All-Industry Committee on the casualty and surety rate regulatory bill and the fire, marine and inland marine rate regulatory bill, thereby producing bills which were acceptable to both your Sub-Committee and to the All-Industry Conference Committee, subject to ratification by the full Committee on Rates and Rating Organizations and further subject to the approval of the National Association of Insurance Commissioners at the meeting scheduled to be held at Portland, Oregon in June, 1946. The action of the All-Industry Conference Committee in accepting the bills in their present form was likewise subject to approval by the full All-Industry Committee.

In considering the action taken by your Sub-Committee at the meeting in New York on May 17 and 18, 1946 it is essential to keep in mind the action taken by the National Association of Insurance Commissioners at the meeting held at



Grand Rapids, Michigan in December, 1945. At that meeting the Association adopted the report of the Committee on Rates and Rating Organizations dated December 5, 1945, which submitted to the Association two rating bills, a fire and marine rating bill and a casualty and surety rating bill. In its December 5, 1945 report the Committee said, among other things:

"Committees in the industry are still attempting to compose some of their differences of opinion on both fire and marine rating bills and casualty and surety rating bills. Under ordinary circumstances this Committee might have been disposed to still further delay the submission of proposed rating bills to the Association in the hope that agreement might be reached. There are, however, legislatures meeting early in 1946 and which will not reconvene until 1948. Consequently the Committee felt it necessary to furnish drafts which could be used as a guide in those legislatures at this time.

"The great majority of legislatures will not meet, however, until 1947. This Committee intends to continue its research and will, of course, consider any ideas or material developed by the industry or the insurance-buying public. The Committee makes no claim that the proposed bills represent the ultimate or last word in rating bills. It is recognized that the science of rate regulation is a progressive one and that changes in thinking will occur as our experience and stock of knowledge increase.

"For those states which subscribe to the principles set forth in these bills the Committee recommends the use of the bills as legislative guides."

The bills which your Sub-Committee accepted at the meeting in New York on May 17 and 18, 1946 differ in a number of respects from the bills submitted by your Committee to the December, 1945 meeting at Grand Rapids. It will be recalled that at the Grand Rapids meeting the drafting Sub-Committee was authorized to make certain editorial and minor changes, which were embodied in the final draft known as the January 18, 1946 draft. The differences between the two drafts will be outlined in detail later in this report.

#### *S. E. U. A. Case and U. S. Public Law 15*

The legal problems confronting the Committee, including those arising from the decision of the United States Supreme Court in the case of *United States v. South-Eastern Underwriters Association*, 64 U. S. Supreme Court 1162 (June 5, 1944), and by the enactment by Congress of U. S. Public Law 15 — the insurance moratorium law (which became effective March 9, 1945) — are set forth in the memorandum of this Committee dated November 17, 1945 which accompanied the rating bills approved by the National Association of Insurance Commissioners at the Grand Rapids December, 1945 meeting. Further source material will also be found in the legislative proposal submitted to the Congress of the United States by the Executive Committee of the National Association of Insurance Commissioners dated November, 1944, which is printed in full in the Congressional Record (Congressional Record, November 16, 1944). The memorandum of November 17, 1945 also contains Report No. 143 of the House of Representatives on S. 340 dated February 13, 1945, U. S. Public Law 15 and the text of President Roosevelt's statement accompanying his signature of the bill on March 9, 1945. Since all of this data is available in the permanent records of the Association it will not be repeated in this report.

#### *The Bills*

Attached hereto and made a part of this report are the casualty and surety rate regulatory bill and the fire, marine and inland marine rate regulatory bill which were accepted by this Sub-Committee at the meeting in New York City on May 17 and 18, 1946.

#### *Analysis of the Bills*

Since many of the provisions in the two bills are identical we shall address ourselves first to the casualty and surety rate regulatory bill.

### *Sec. 1 — Purpose of Act.*

The purpose of Section 1 becomes clear when read in the light of the Congressional debate preceding the enactment of U. S. Public Law 15, the reports of the various Congressional committees in connection with that bill, particularly Report No. 143 of the House of Representatives dated February 13, 1945, and the law itself. These sources of material indicate quite plainly that Congress was willing to permit co-operative action, including price-fixing, in the insurance business on a state level providing such activity was regulated and at the same time was interested in seeing to it that reasonable competition was preserved. It was felt that the insertion of a purpose clause together with a provision calling for a liberal interpretation of the bill would serve as a guide for state administrators in interpreting and enforcing the new law.

### *Sec. 2 — Scope of Act.*

The wording of this section is generally self-explanatory.

Of particular interest, however, is the fact that unanimous agreement was reached upon the point that the rates for all forms of motor vehicle insurance shall be regulated under the casualty bill.

Up to the time that work was completed on these two bills there were differences of opinion as to the manner in which certain phases of the accident and health insurance business should be regulated. Rather than create a delay in the consideration of these bills your Sub-Committee and the industry decided to exclude accident and health insurance. Further consideration will be given by your Sub-Committee to the nature and extent of the regulation required to deal with this problem and a report will be forthcoming at a later date.

There are likewise conflicting views as to the nature and extent of the regulation required in connection with aviation insurance rates. There are a number of aviation rates which lend themselves readily to state regulation. On the other hand, the rating problem in the aviation business has certain peculiarities which are now being explored and it was felt that for the time being at least the regulation of aviation rates should be excluded.

### *Lines 1 to 8 on Page 2.*

These lines refer to so-called overlapping coverages and were inserted in the bill to prevent regulation under two different rating bills of the same general subject matter. When the Committee prepared the January 18, 1946 draft it felt that the Commissioner should designate under which particular act the regulation fell but upon reconsideration it was determined that a more uniform pattern could be secured by allowing the companies operating under the act to make their own choice. Since both acts are subject to the same basic standards the public would be protected in either event.

In drafting these bills your Sub-Committee made no effort to deal with the possible conflict between laws of this type and compulsory laws such as workmen's compensation and motor vehicle insurance. Such cases will require special consideration.

### *Sec. 3 — Making of Rates.*

Subsection (a) recognizes the general principles to be considered in rate making.

Subdivision 2 of subsection (a) is designed to recognize differences in the operating methods of insurers in the field of rate making and was specifically intended to preserve their independence in this respect.

Subdivision 3 of subsection (a) is designed to provide added flexibility in the rate structure in the public interest.

Subdivision 4 of subsection (a) sets forth the standards to be used in rate making and in rate regulation and is the heart of the bill.

Subsection (b) is incorporated in the bill to implement directly Section 1, the purpose clause. In drafting these bills it was recognized that many companies desired to take independent action. It was recognized that uniformity while authorized should not be mandatory, thereby preserving freedom of action upon the part of those who desire to take action independently.

#### *Sec. 4, — Rate Filings.*

Subsections (a) and (b) of this section are self-explanatory. In a word, these two subsections contemplate that all material data on rates shall be a matter of public record and this result is accomplished by a mandatory provision for filing.

Subsections (c) and (d) recognize principles which differ to some extent from those followed in the draft of January 18, 1946. In that draft it was provided in substance, subject to certain exceptions, that no rate could be used unless it had been first approved by the Commissioner. In this draft a duty is imposed upon the Commissioner to review filings as soon as reasonably possible after they have been made in order to meet the requirements of this act (Section 3—(c)). Unlike the January 18, 1946 draft, this bill provides for the use of a waiting period between the time the filing is made and when it is to be used. The theory of the bill is that the Commissioner will examine the filing during that waiting period. It provides a waiting period of fifteen days plus an optional waiting period of fifteen additional days, making thirty days in all. It was felt that this thirty-day period under most circumstances would afford the Commissioner ample time within which to review a filing before it took effect and at the same time would not unduly impede the expeditious transaction of business. This conclusion was based upon the fact that in most instances bureaus and companies informally submit filings to Commissioners in advance of formal filings; bureaus and companies are reluctant to go to the expense of printing and distributing rate manuals and similar data without first ascertaining whether the filing will be approved. Subsection (d) also contains a provision permitting acceleration of the effective date where the Commissioner has reviewed the filing before the expiration of the waiting period or any extension thereof. Like the January 18, 1946 draft it contains a "deemer clause" although in this draft that clause is tied to the waiting period.

Subsection (e) is a clause designed to meet a problem peculiar to the fidelity and surety business. Certain forms of bonds are required to take effect forthwith and it would be impractical to suspend their effective date during the waiting period. The necessity for special treatment was recognized in the Commissioners' draft of January 18, 1946.

Subsection (f) is designed to permit the Commissioner to dispense with filing under certain circumstances. The language of this subsection is self-explanatory.

Subsection (g) is designed to provide relief for those assureds which are unable to obtain insurance at normal rates. The necessity for this form of relief was recognized in the January 18, 1946 draft. To prevent abuses the approval of the Commissioner for any excess charge is required and the Commissioner in giving such approval may, of course, be guided by the statutory yardsticks set forth in Section 3-(a)-4 of this bill. Assigned risk plans are treated in Section 15 of this bill.

Subsection (h) contains a provision requiring insurers to observe the provisions of this act in connection with the issuance of policies; it is the section which gives the act effect.

#### *Sec. 5 — Disapproval of Filings.*

The language of subsection (a) is generally self-explanatory. One phase of it, however, is particularly noteworthy; it requires the Commissioner in disapproving a filing to set forth the specific grounds on which he relied in making his determinations. It should tend to improve the quality of rate regulation for the requirement that the Commissioner shall furnish the reasons supporting his decision prevents arbitrary and capricious action by an administrator.



While the Commisisoner should consider the expense components of a rate in order to determine its over-all correctness, the bill does not authorize the Commissioner to regulate the actual disbursements made by an insurer for expenses.

Subsection (b) is likewise self-explanatory. Since many of the bonds written under this section cannot be cancelled by the insurer it was necessary to incorporate in this subsection a provision that any disapproval shall not be retroactive.

Subsection (c) is designed to meet two contingencies: (1) where a rate takes effect under the deemer clause (Section 4-(d)) and the Commissioner subsequently discovers that the rate does not meet the standards, he can review the filing, and (2) there are many filings which are proper when made but which subsequently, due to a change in the statistical or economic picture, do not meet the requirements of the act. This subsection enables the Commissioner, after a hearing, to disapprove filings which do not meet the requirements of the act. It contains a provision which prevents the Commissioner from making his order effective retroactively.

Subsection (d) is designed to provide relief for any person or organization aggrieved with respect to any filing. Complete machinery is established to deal with this problem. As this draft now stands, the rating organization, the insurer, the Commissioner and the buyer are all provided with the means of dealing with any defect in the rate structure.

### *Sec. 6 — Rating Organizations.*

This section deals with rating organizations and their activities. It provides for the licensing of such organizations and established standards therefor. In drafting these requirements the Committee was fully cognizant of the fact that rating organizations are engaged in price-fixing activities and recognized that such activities should be surrounded with appropriate safeguards in the public interest. On the other hand, the Committee also recognized the need for legitimate cooperation among insurers through the medium of rating organizations and the Congressional debate preceding the enactment of U. S. Public Law 15 reflected that fact. It should be noted that Section 4-(b) specifically provides that nothing contained in this act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization. However, there are some rate structures which are so complicated that while there may be no legal obligation imposed upon a company to become a member or subscriber of such an organization, the company must in fact become either a member or a subscriber if it is to survive economically. For that reason your Sub-Committee felt it necessary to see to it that the bills contained provisions which gave the necessary latitude to members and subscribers of rating organizations. This latitude is reflected not only in Section 6 on rating organizations but also in Section 7, that dealing with deviations, and Section 8 covering appeals by minorities. An examination of subsection (b) will disclose that special consideration has been given to safeguards for subscribers to rating organizations.

The language of subsection (c) is identical with that employed by your Sub-Committee in the January 18, 1946 draft. The comments made in the Sub-Committee's memorandum of November 17, 1945 in connection with that subsection (see pp. 5-6) apply with equal force to this subsection and need not be repeated.

Subsection (d) is new and was not embodied in our previous drafts. In certain instances it has been advantageous for rating organizations to cooperate with insurers or with other rating organizations. The development of standard forms of coverage is an illustration of this form of cooperation. Since this form of cooperation might conceivably be challenged under the Sherman Act it was felt advisable to cover such activities in these bills. It was recognized, however, that such activities might be carried to the point where they were no longer fair or reasonable and the necessity for adequate safeguards was apparent. These bills in their present form authorize cooperation but two restrictions are imposed; first, all rate filings resulting from such cooperative action are subject to all the

provisions of the act which are applicable to filings generally and, second, the Commissioner may issue a cease and desist order if he finds that the activities of practices carried on under this subsection are unfair or unreasonable or otherwise inconsistent with the provisions of this act. Time will tell whether these safeguards are adequate but in the present state of affairs the Sub-Committee felt that no need for more drastic requirements had been established.

#### *Sec. 7 — Deviations.*

It has become increasingly evident that any insurance rate regulatory law which unduly restricts the desire of a carrier to pass on a demonstrated economy to the insurance buyer is not in the public interest. The opportunity for increased flexibility in the application of deviation statutes is conducive to increased competition within the framework of a rating organization. This section is designed to encourage the granting of deviations in proper cases.

Under ordinary circumstances deviations have been granted because of demonstrated savings in the expense portion of the dollar. It is recognized, however, that under certain circumstances a more favorable loss record of a company justifies a deviation. There may be still other circumstances calling for the granting of a deviation. This section permits all such factors to be considered provided the result is not inconsistent with the basic standards of the act.

The Sub-Committee calls attention to the fact that while there is a difference between the language employed in the January 18, 1946 draft and the present draft of the casualty bill, the two sections accomplish substantially the same result.

#### *Sec. 8 — Appeal by Minority.*

The incorporation of a provision for an appeal by a minority in rating bills is of very recent origin, having been first brought up in the last two years. The right of appeal will probably be sparingly used by minority members of rating bureaus where there are competing bureaus in the same field or where the insurer can operate to good advantage without retaining his membership in the bureau. We say this because if the insurer is dissatisfied he can resign from one bureau and affiliate with another one or can operate independently. On the other hand, where an insurer does not have these choices and for all practical reasons must be a member or subscriber of a rating organization, it seems reasonable to assume that more frequent use will be made of this form of relief.

In the January 18, 1946 draft, which is concededly broader in scope than the present bills, language was used which gave the Commissioner the right to affirm, modify or reverse any decision of a rating bureau upon an appeal by a minority member. The industry had offered as a suggestion a provision which specified, in substance, that the Commissioner could affirm the action of the majority or, in the event that the Commissioner disagreed, he could ask the majority to reconsider. This suggestion was unacceptable to your Sub-Committee. Both the Conference Committee of the All-Industry Committee and your Sub-Committee agreed that a minority appeal section should unquestionably give the Commissioner the power to compel a rating organization to make a filing on behalf of a member or subscriber where the appeal was based upon the refusal of the majority to make a filing for the appellant based upon a system of expense provisions which differed from the system of expense provisions included in the filing made by the rating organization. Such a provision is included in the casualty bill and to that extent meets one of the major objectives which your Sub-Committee sought to attain in the language which it used in the January 18, 1946 draft.

A second class of minority appeals, but of equal importance, arises where a majority in a bureau refuse to make a filing for a minority on new and broader forms of coverage, or to state it another way, an addition to the filings of the rating organization. The attached draft specifically meets this problem and to that extent it likewise effectuates one of the results which your Sub-Committee sought to attain in its draft of January 18, 1946. Experience in those states where

appeals have been taken to the Commissioner from the actions of majorities in rating bureaus have usually centered on the two grounds enumerated. Time will tell whether other protection for minorities is required.

*Section 9 — Information to be Furnished Insureds: Hearings and Appeals of Insureds.*

The language of this section is identical to the language employed in your Committee's January 18, 1946 draft. On the whole it is self-explanatory. It has a different purpose, however, from Section 5-(d). That sub-section enables any person aggrieved to challenge the over-all propriety of any particular filing whereas this section enables an assured to challenge "the manner in which such rating system has been applied in connection with the insurance afforded him".

*Sec. 10 — Advisory Organizations.*

While this section is new it was not overlooked when your Sub-Committee prepared the January 18, 1946 draft. At that time it was recognized that this problem would have to be solved and further consideration of the problem has resulted in the language now found in the bill.

In considering the enactment of rating bills it has been recognized that were the states to require insurers to form separate rating organizations in every state it would create a tremendous bureaucracy, in many instances wholly unnecessary, and would increase the cost with little or no compensating return. At the same time it was also recognized that in order to give the state adequate control over the activities of rating organizations, as contemplated by U. S. Public Law 15, a method had to be devised of placing such organizations under the jurisdiction and control of the Insurance Commissioner. Licensing was the medium employed to achieve that result in these bills. However, there are many organizations in the insurance business which assist insurers and rating organizations in making rates but which cannot be said to be rating organizations. It was felt that no useful purpose would be served by making such organizations submit to the same licensing requirements as rating organizations. Indeed, the same argument against unnecessary duplication of effort and expense, to which reference has already been made, applied with equal force to these organizations. At the same time it was decided that the public interest as well as the provisions of the Sherman Act required that a measure of control be kept over such organizations. Section 10 was devised to meet this problem. The organizations were labeled advisory organizations and have been defined in subsection (a). In subsection (b) they are required to meet certain filing requirements there enumerated and particularly to submit to examination under exactly the same requirements as a rating bureau. In subsection (c) power is conferred upon the Commissioner to issue a cease and desist order if he finds that the activities of such advisory organizations are unfair or unreasonable or otherwise inconsistent with the provisions of this act. As an added safeguard, under subsection (d) insurers and rating organizations are prohibited from using the facilities of advisory organizations unless the advisory organization has first complied with the requirements of this section. Under penalty of suspension or revocation of their licenses (Section 16 of casualty bill and Section 15 of fire bill), insurers and rating bureaus are prohibited from dealing with an advisory organization which is in violation of a cease and desist order issued by the Commissioner.

*Sec. 11 — Joint Underwriting or Joint Reinsurance.*

This section is new but, like Section 10, its need was visualized when the January 18, 1946 draft was prepared.

Subsection (a) provides, in substance, that all joint underwriting activities are subject to all the provisions of this act whereas joint reinsurance operations are subject only to Sections 12 and 16 to 20 of the casualty bill and Sections 12 and 15 to 19 of the fire and marine bill. The reason for this variation in treatment is obvious when it is considered that this bill does not contemplate that reinsurance rates shall be regulated. It may well be that the activities of certain groups, associations or other organizations of insurers engaged in joint underwriting may be



conducted in such a way as to fall under Section 10 and if that occurs they will necessarily have to comply with the provisions of that section. If their operations fall short of the activities enumerated in Section 10, they will nevertheless be subject to the general regulatory provisions set forth in Section 11 including being subject to cease and desist orders where their activities and practices are unfair, unreasonable or otherwise inconsistent with the provisions of this act.

#### *Sec. 12 — Examinations.*

Under this section the Commissioner is empowered to examine rating organizations, advisory organizations and any group, association or other organization engaged in joint underwriting or joint reinsurance. The language of the section is self-explanatory.

Attention is directed to the footnote in the bill which points out the advisability of incorporating in any statute a provision making reports of examinations conducted under this section public records. Such statutory provision is a distinct administrative aid.

#### *Sec. 13 — Rate Administration.*

The language of this section corresponds substantially with Section 9 of the Commissioners' draft of January 18, 1946. The language in the Commissioners' memorandum of November 17, 1945 is therefore relevant and is repeated herewith.

"In recent times there has become an increasing awareness upon the part of carriers, public and supervisory authorities alike of the necessity for adequate statistics covering not only the loss portion of the dollar but the expense portion as well. In most rating formulas in use today expenses consume a substantial portion of the dollar and in some lines consume a major portion of the dollar. Practically all rating laws require the commissioner in determining the correctness of the rates to consider expense elements in the premium dollar. It is manifest that the commissioner requires good statistics on this portion of the dollar if he is to discharge his duty. Consequently a rating law which provides for the collection of figures on the loss portion of the dollar only is necessarily incomplete.

"Furthermore, we must keep in mind that the Robinson-Patnam Act, a portion of which will be applicable to the insurance business after January 1, 1948, expressly prohibits price differentials by reason of volume or size unless supported by adequate cost figures. This development gives further impetus to the necessity for good figures on the expense portion of the dollar.

"It is apparent that some expense items will vary from state to state. Taxes fall in this category. Acquisition costs likewise vary from state to state. On the other hand, there are some items in the expense portion of the dollar which do not lend themselves readily to a breakdown on a state-by-state basis. State supervisory authorities are cognizant of these facts and there is no sound reason to anticipate that any unduly burdensome requirements will be laid down by the states in connection with the collection and reporting of expense figures.

"In the opinion of the drafting committee this Act makes reasonable provision for dealing with both the recording and reporting of loss and expense experience and also lays a foundation for interstate cooperation in this field."

#### *Sec. 14 — False or Misleading Information.*

In the field of rate making the collection of correct statistical data is of the essence. The suppression of necessary data or its distortion can cause not only inaccuracy in the rates but result in imposing a financial loss upon the insuring public. This section is designed to put teeth into the law in order to insure accuracy. At the same time the drafters of the bill employed language which would not subject unintentional violators of this section to penalties.

#### *Sec. 15 — Assigned Risks.*

Assigned risk plans are used in a number of different lines of insurance such

as workmen's compensation and automobile insurance. In some states the plans are statutory; in other states they are voluntary. The provisions of the plans also vary from state to state depending upon the policy of the state. The method of dealing with these plans is further complicated in certain states because of compulsory insurance and financial responsibility acts. All of these considerations made it inadvisable to attempt to deal with this subject in detail in this statute. The Committee accordingly incorporated a provision permitting co-operative action in this field. As a precaution it added a footnote. The footnote is specifically designed to call to the attention of legislative bodies the necessity of considering all relevant factors in connection with assigned risk plans.

*Sec. 16 — Penalties.*

The language of this section is in the main self-explanatory. In drafting the bill a distinction was drawn between wilful violations of the statute and violations in which intention could not be proved. The penalty of suspension was also provided for those who failed to comply with an order of the Commissioner. Both insurers and organizations are protected against arbitrary or capricious action on the part of the Commissioner by appropriate provisions for hearing and judicial review.

*Sec. 17 — Hearing Procedure and Judicial Review.*

Subsection (a) was embodied in the Act to provide an appeal machinery covering administrative rulings or orders made without a hearing. A similar provision was incorporated in the Commissioners' draft of January 18, 1946.

Subsection (b) is identical with a provision also found in the Commissioners' draft of January 18, 1946 and is self-explanatory.

Subsection (c). The Committee also agreed that every order or determination of the Commissioner should be subject to judicial review and this bill so provides. In the January 18, 1946 draft the Committee undertook to prescribe the scope of judicial review. In this draft the scope of the judicial review has been left open. The Committee decided that the scope of judicial review was a matter to be determined by each state in accordance with its policy or dealing with the review of determinations made by administrative agencies.

*Sec. 18 — Laws Repealed.*

This is the repealer section customarily adopted in all legislation.

*Sec. 19 — Constitutionality.*

This is the customary constitutionality clause.

*Sec. 20 — Effective Date.*

The footnote in the bill is self-explanatory.

*Anti-Rebate Section.*

This is an additional section recommended for states which have an inadequate anti-rebate law or have no such law. The headnote on the addendum explains the entire purpose of the section.

*Fire, Marine and Inland Marine Rate Regulatory Bill.*

This bill follows the same general pattern as the casualty and surety rate regulatory law. Indeed, many of its sections are identical. For that reason comment will be made in this portion of the Committee's report only on sections of the Fire, Marine and Inland Marine Rate Regulatory Bill which are peculiar to that bill.

*Sec. 2 — Scope of Act.*

This section is self-explanatory.

*Sec. 3 — Making of Rates.*

Changes peculiar to the fire insurance business have been made in this section, particularly in subsections 1 and 3, and the same observations apply to subsection 4.

*Sec. 4 — Rate Filings.*

Subsection (e) is in some respects similar to Section 4-(e) of the casualty and surety bill dealing as it does with specially rated risks which do not fit in the normal rating pattern. Provision is made for dealing with this special class of risks in Section 5-(b) under the general heading of "Disapproval of Filings."

*Sec. 6 — Rating Organizations.*

Subsection (e) is peculiar to the fire insurance business. In the parlance of the business this section authorizes the operation of a "stamping office."

*Sec. 7 — Deviations.*

The deviation section in the fire, marine and inland marine rate regulatory bill differs somewhat from the deviation section of the casualty and surety bill. It is broader in scope since it does not require a uniform percentage deviation and reflects the difference in the methods of operation of the two businesses.

*Sec. 8 — Appeal by Minority.*

That portion of the casualty and surety rating bill which deals with appeals in connection with systems of expense provisions is omitted from the fire, marine and inland marine rate regulatory bill. This is due to a difference in the operating methods of the businesses.

*Conclusion and Recommendation*

The casualty and surety rate regulatory bill and the fire, marine and inland marine rate regulatory bill represent the product of a series of conferences between the Conference Committee of the All-Industry Committee and your Sub-Committee. The object of the conferences was to develop bills which would be acceptable to the states and the industry based upon intensive research and study extending over a period of more than two years. In the course of the conferences many conflicting views among many segments of the industry as well as between the industry and the Commissioners were reconciled and these bills can be viewed as representing the composite views of those who participated in the deliberations.

The All-Industry Conference Committee has unanimously recommended to the All-Industry Committee that the All-Industry Committee approve both bills. A meeting of the All-Industry Committee has been called to act on the matter prior to the time the matter will be submitted to the Commissioners for action at Portland.

As we pointed out in our earlier report, the sciences of rate making is a progressive one and as time passes changes and improvements will, no doubt suggest themselves. However, in the light of present day thinking and for those states which subscribe to the principles set forth in the bills, the Committee recommends their use at this time.

The Sub-Committee requests the Committee on Rates and Rating Organizations (1) to approve and ratify the attached bills, (2) to approve this report and (3) to submit the bills and this report to the National Association of Insurance Commissioners to be held at Portland, Oregon in June, 1946 with a recommendation by the full Committee that the bills and this report be approved and adopted by the Association. The requests and recommendations made in this paragraph are contingent upon approval and acceptance of both bills in their present form by the All-Industry Committee before action is taken by the full Committee on Rates and Rating Organizations and the National Association of Insurance Commissioners at Portland.

Respectfully submitted,

CHARLES F. J. HARRINGTON (Mass.), *Chairman*  
NEWALL R. JOHNSON (Minn.)  
ROBERT E. DINEEN (N. Y.)

New York, N. Y.  
May 23, 1946.



## REPORT OF THE SUB-COMMITTEE OF THE COMMITTEE ON RATES AND RATING ORGANIZATIONS

NEW YORK, N. Y.

MAY 17-18, 1946

The Sub-Committee of the Committee on Rates and Rating Organizations met with the Conference Committee of the All Industry Committee in New York on May 17 and 18 to give further consideration to the matter of uniform rating legislation. The following members of the Sub-Committee were present:

Hon. Charles F. J. Harrington, Massachusetts, Chairman

Hon. Newell R. Johnson, Minnesota

Hon. Robert E. Dineen, New York

Also present was Deputy Superintendent A. J. Bohlinger of New York.

A redraft of those sections of the bill on which agreement had been reached at the meeting held in Atlantic City April 29 — May 2, 1946 was submitted to your Committee. It was also reported that the various proposals regarding cooperative action among rating organizations, joint underwriting operations, assigned risks and activities of organizations engaged in assisting rating organizations had been redrafted. It was further reported that the various modifications and suggestions had been integrated into a new draft of the Casualty and Surety Rating Regulatory bill as well as the Fire and Marine Regulatory Bill, both dated May 2, 1946. The said drafts were discussed particularly with reference to the proposed sections covering assistance to rating organizations, joint underwriting operations, cooperative action among rating organizations and assigned risks.

There was also discussed at considerable length Section 3-a-3 of the Fire and Marine Rating Bill, with particular reference to the rate making factor "reasonable margin for underwriting profit".

Following a full exchange of views, your Committee went into executive session. At the conclusion thereof, your Committee met with the All Industry Committee and the various points still open for consideration were disposed of as follows:

### *Section 2 of the Fire and Casualty Bills.*

This Section covers the scope of the Act. At previous meetings there had been left open for final determination the matter of overlapping coverage. The question involved concerned itself primarily with the question of which branch of the industry should exercise rating functions over automobile business. After consultation it was agreed with the industry that such function should be exercised by the casualty branch of the insurance business. Accordingly it was agreed that all reference to motor vehicle insurance as contained in the draft of the Fire and Marine Bill should be deleted therefrom and same should be covered by the Casualty Bill.

### *Section 3 of the Fire and Casualty Bills.*

In reference to the factors to be taken into consideration the use of the words "underwriting profit" was considered at great length. Your Committee had reviewed considerable data which disclosed that there was some question as to the meaning to be given to the word "underwriting" and as to what elements should be taken into consideration in determining profit. The All Industry Committee felt that the word "underwriting" should be included in the draft. It was finally agreed that the said word would be omitted and that an asterisk should precede the word "profit" with a footnote comment to read: "The All Industry Conference believes the word 'underwriting' should precede the word 'profit'. The National Association of Insurance Commissioners is giving further study to this matter."

In the same section the use of the word "contingencies" had been left open for discussion. After explanation had been made, and the common practice in the business concerning loading contingencies had been discussed, it was agreed that the said word should remain in the bill.

*Section 10 of the Casualty and Fire Bills.*

At the meeting held in Atlantic City April 29 — May 2 the All Industry Committee submitted a draft covering the activities of organizations which assisted insurers or rating organizations by the collection and furnishing of loss and expense statistics or by the submission of recommendations. Consideration of this section had been held in abeyance and was given further consideration by your Committee. Such organizations were designated in the draft as "Service Organizations". It was felt by your Committee that the title "Service Organizations" would be confusing particularly in view of the fact that some states already have statutory enactments covering service organizations which would not come within the purview of the section submitted by the All Industry Committee. Your Committee therefore suggested that the title of the section be changed to read "Advisory Organizations" which suggestion was agreed to by the All Industry Committee. Section 10(a) limited advisory organizations to an organization of insurers. Your Committee felt that this limitation was restrictive inasmuch as advisory groups which were not groups of insurers might be active in connection with rate making. The definition was accordingly broadened to include "every group, association or other organization of insurers".

*Section 11 of the Casualty and Fire Bills.*

The subject of joint underwriting operations by insurers was submitted as a new amendment to Section 11 of both the casualty and the fire bills. After consideration it was agreed that the said section as drafted would be acceptable.

*Section 12 of the Casualty and Fire Bills.*

At previous meetings the examination of rating organizations had been discussed and it had been agreed that such organizations should be subject to examination by the commissioner. At the meeting held in New York May 17 and 18 there was a discussion with reference to examining advisory organizations and joint underwriting operations. Your Committee felt that all organizations of the said character should be subject to examination. It was agreed that a new section should be drawn which would in omnibus form cover this subject. The All Industry Committee submitted a proposed draft which was accepted by your Committee.

*Section 7 of the Casualty Bill.*

This section covers deviations. It has consistently been the contention of your Committee that the section as drafted by the All Industry Committee was too restrictive in its scope. Your Committee informed the All Industry Committee that it would not accept the section as presented unless deviations could be obtained on a broader scale than that provided for in the draft submitted by the All Industry Committee. Upon being apprised of your Committee's views, the All Industry Committee redrafted the said section. As redrafted, your Committee agreed to accept the same.

*Section 15 of the Casualty Bill.*

This section covers assigned risk plans. As submitted in the draft of May 2nd your committee felt that the said section should contain provisions covering hearing and appeal procedure. It was the contention of the All Industry Committee that, as drafted, the section was sufficiently comprehensive in that any assigned risk plans which operate voluntarily under an agree-

ment could operate only after approval of the plan by the commissioner. The All Industry Committee conceded, however, that in some states it might be desirable to have assigned risk plans operate only under specific statutory authorization. A further objection raised by your Committee was to the fact that the section, as drafted, authorized surcharges. Your Committee was of the opinion that in some instances surcharges would not be applied. After discussion it was agreed to substitute in place of the word "surcharges" the words "reasonable rate modifications." It was therefore agreed between your Committee and the All Industry Committee that the section, as submitted in the draft of May 2, would be accepted with the words "reasonable rate modifications" in place of "surcharges" subject, however, to the provision that a footnote appear in any draft submitted to a state legislature calling attention to the fact that if assigned risk plans were to operate only pursuant to statutory authority adequate legislation should be presented for legislative consideration.

*Section 2 of the Fire and Marine Bill.*

The matter of the definition of inland marine insurance contained in Section 2 of the Fire Bill was discussed and it was agreed the definition as originally drafted and as contained in the Fire and Marine Bill of May 2, 1946 would be acceptable. Accordingly the definition as contained in the said bill was agreed upon.

*Section 6 f of the Fire Bill.*

In the draft of May 2 the subject of the purchase by a rating organization of actuarial, technical or other services was discussed in relation to Section 10 covering advisory organizations. Your Committee agreed that the section as submitted would be acceptable.

Representatives of the National Association of Insurance Brokers attended the meeting and suggested that the following language be included in the bill:

"Nothing in this Act shall abridge the right of an insurer freely to contract with agents and brokers with respect to the matter of commissions, or with others with respect to matters of internal management".

The subject was discussed at considerable length and it was considered advisable to omit reference thereto. However, it was agreed that the same will be covered in a memorandum which will accompany the bill on submission to any legislative body so this question may be decided in each jurisdiction in accordance with such legislative action as might be deemed advisable or desirable.

Respectfully submitted,

CHARLES F. J. HARRINGTON (Mass.), *Chairman*  
NEWALL R. JOHNSON (Minn.)  
ROBERT E. DINEEN (N. Y.)

New York, N. Y.  
May 18, 1946



REPORT OF THE SUB-COMMITTEE OF THE COMMITTEE ON  
RATES AND RATING ORGANIZATIONS

ATLANTIC CITY, NEW JERSEY

April 29 to May 2, 1946

The Sub-Committee of the Committee on Rates and Rating Organizations met with the All-Industry Committee at Atlantic City, New Jersey, on April 29, 30, May 1 and 2, to give further consideration to the matter of uniform rating legislation.

The following members of the Sub-Committee were in attendance:

Hon. Charles F. J. Harrington, Massachusetts, Chairman  
Hon. Newell R. Johnson, Minnesota  
Hon. Robert E. Dineen, New York  
Hon. Hugh Christie, as proxy for Hon. J. Edwin Larson, Florida

Also present were:

Hon. William A. Sullivan, Washington  
Hon. Walter Dressel, Ohio  
Deputy Superintendent Walter F. Martineau, New York  
Deputy Superintendent Alfred J. Bohlinger, New York  
Examiner G. A. Corso, Ohio

The All-Industry Committee presented three proposals for additional sections to be added to the Casualty Bill as follows:

- (a) A section to bring assigned risk plans within the supervisory power of commissioners.
- (b) A provision authorizing cooperation among rating organizations or among rating organizations and insurers.
- (c) A provision bringing within the scope of the law underwriting pools, such as the Grain Pool, the Cotton Pool, F.I.A. and others, and also bringing within the scope of rating laws organizations which assist insurers or rating organizations in rate making by the collection and furnishing of loss and expense statistics or the submission of recommendations.

With the exception of the proposed section covering assigned risk plans the foregoing proposals were also submitted for consideration in connection with the Fire and Marine Rating Bill.

The said proposals were discussed with the All-Industry Committee. Your Committee indicated that as to the proposal covering underwriting pools and organizations engaged in assisting insurers and rating organizations the same was on its face unacceptable. Your Committee suggested that the All-Industry Committee endeavor to redraft the said proposals for later consideration at a subsequent session of the meeting. Your Committee informed the All-Industry Committee that all of the foregoing proposals would have to be given further consideration by the Commissioners.

The foregoing matters were then taken up by your Committee in executive session with the following results: As to the proposed section covering assigned risks, it was felt that the proposal was defective in that it did not provide for adequate supervision; it did not provide for approval of the plan by the Commissioner; it did not provide any appeal machinery. Your Committee agreed to submit these criticisms to the All-Industry Committee for further consideration. As to the balance of the foregoing proposals, it was the unanimous opinion of your Committee that in the form presented by the All-Industry Committee, the sections were open to criticism in that they placed a cloak around activities in

concert without adequate regulatory safeguards. Your Committee informed the All-Industry Committee of its objections. The All-Industry Committee having redrafted the provisions with regard to underwriting pools and organizations which assist insurers or rating organizations submitted the revised proposals. Your Committee decided to hold the same in abeyance until determination of the various questions hereinbefore referred to.

With further reference to the Casualty Bill, the following matters were considered:

*Section 3 a (3) of the Casualty Bill.* At the meeting held in Chicago on April 23-26, the All-Industry Committee submitted a revision of Section 3 a (3) of the Casualty Bill by adding thereto further wording to produce greater flexibility in rating plans. After consideration by your Committee, the section as revised was accepted and agreed to by the All-Industry Committee.

*Section 7 of the Casualty Bill.* This section covering deviations was discussed by your Committee in executive session and with the All-Industry Committee. It was agreed by your Committee that Section 7, as contained in the All-Industry draft of April 19, 1946, would not be acceptable and the said section was held over for further consideration.

With specific reference to the Fire and Marine Bill, the following subjects were considered at the meeting:

*Section 2 of the Fire Bill.* At previous meetings your Committee indicated that the definition of Inland Marine Insurance should be clarified. Upon reconsideration of the matter, the All-Industry Committee stated that it could not improve upon the definition and the matter was left for future consideration.

*Section 3 a (1) and 3 a (3) of the Fire Bill.* At the meeting held in Chicago, the omission of the reference to "basic classifications" in Section 3 a (1) was discussed. The origin of the language could not be ascertained, nor could its meaning be definitely established. It was agreed between your Committee and the All-Industry Committee that the reference to basic classifications, as one of the factors in the making of rates, should be omitted. Your Committee also resumed discussion with the All-Industry Committee with reference to the factor set forth in 3 a (3) of the draft of April 19, regarding a "reasonable margin for underwriting profit". The All-Industry Committee advised your Committee that the words had a definite meaning; had been judicially interpreted and that they were sufficiently clear. Your Committee decided to hold the matter in abeyance pending investigation into the judicial decisions construing the said words.

*Section 4 (a) of the Fire Bill.* Section 4 a of the draft of April 19, was taken up with the All-Industry Committee. It was the unanimous opinion of your Committee that supporting information should accompany all rate filings. After consideration, the All-Industry Committee advised that they had agreed to adopt the language contained in Section 4 a of the Casualty Bill which language had previously been agreed upon and was acceptable to your Committee.

*Section 6 f of the Fire Bill.* Section 6 f, which provides that any rating organization may subscribe for or purchase actuarial or other technical service, was discussed at the Chicago meeting held on April 23-26. At the meeting held in Atlantic City, the All-Industry Committee presented the proposals covering pools, etc., hereinbefore referred to. It was the unanimous opinion of your Committee that Section 6 f, as contained in the All-Industry draft, was irrevocably tied up with the aforementioned proposals and that disposition of all questions in connection with Section 6 f should await further study.

The following subjects, which apply to both the Casualty Bill and the Fire Bill, were discussed at the meeting:

*Section 2 of the Casualty and Fire Bills.* This section, which covers the subject of overlapping coverage, was discussed. The All-Industry Committee had not reached any accord and the matter was continued for discussion at future meetings.

*Section 4 f of the Casualty and Fire Bills.* At the previous meetings, there had been left open for future consideration this section of both the Casualty and Fire Bills. This section covers the matter of waiving of filings. After further consideration, your Committee decided to adopt the entire wording of the section as submitted in the draft of April 19, 1946.

*Section 5 d of the Casualty and Fire Bills.* At previous meetings the matter of appeals by aggrieved persons had been the subject of discussion. As a result of suggestions made by your Committee, the All-Industry Committee prepared a draft numbered Section 5 d in both the Casualty and Fire Bills providing for an appeal by any aggrieved person or organization with respect to any filing. The section as drafted provided the safeguards urged by your Committee. The said section was in acceptable form and was agreed upon between your Committee and the All-Industry Committee.

*Section 10 of the Casualty and Fire Bills.* Section 10 a of the drafts of April 19, 1946, provided that loss and countrywide expense experience should be made available to the Commissioners at least biennially. It was felt by your Committee that such experience should be made available at least annually. The matter was submitted to the All-Industry Committee and the said Committee agreed with your Committee's recommendations.

The matter of factors to be taken into consideration in the making of rates and more particularly the use of the word "contingencies" (3 a (1) of the Casualty Bill and 3 a (3) of the Fire Bill) was again discussed but no agreement was reached.

At the close of the meeting, it was decided that a further meeting would be held in New York City, May 17, and May 18, 1946.

#### SUB-COMMITTEE OF THE COMMITTEE ON RATES AND RATING ORGANIZATIONS

CHARLES F. J. HARRINGTON, *Chairman*, Massachusetts  
ROBERT E. DINEEN, New York  
NEWELL R. JOHNSON, Minnesota

#### REPORT OF THE SUB-COMMITTEE OF THE COMMITTEE ON RATES AND RATING ORGANIZATIONS

CHICAGO, ILLINOIS

April 23-26, 1946

The Sub-Committee of the Committee on Rates and Rating Organizations met with the Drafting Committee of the All-Industry Committee at Chicago, on April 23, 24, 25 and 26, for further consideration of the matter of uniform rating legislation.

The following members of the Sub-Committee were in attendance:

Hon. Charles F. J. Harrington, *Chairman*, Massachusetts  
Hon. Newell R. Johnson, Minnesota  
Hon. Robert E. Dineen, New York

also present were Deputy Superintendent Alfred J. Bohlinger of New York and William C. Green, Assistant Attorney General of Minnesota.



The All-Industry Committee reported that it had given consideration to the various points and had endeavored to redraft the proposed Casualty and Surety Rate Regulatory Bill, dated February 28, 1946, which had been the subject of the discussion of the meeting held at French Lick. They reported that in an effort to meet the objections raised by your Committee, the various sections in question had been redrafted. The All-Industry Committee presented a new draft of the Casualty and Surety Rate Regulatory Bill dated February 28, 1946. The various points were as follows:

1. Section 1 of the Draft which covers the purposes of the Act had previously provided that the Act was intended among other things " \* \* \* to authorize and regulate cooperative action among insurers \* \* \* ". The All-Industry Committee reported that it was the consensus that the purpose of the bill was not only to authorize cooperative action, but that the essence of the bill included comprehensive rate regulation as well as regulation of cooperative action and that therefore the words "and regulate" were not only feasible but necessary in order that the Section might be truly descriptive.

Your Committee felt that the explanation was essentially correct and agreed to withdraw its previous objection. Consequently the words previously objected to, to wit: "and regulate" are now included as part of the Section.

2. Sub-section D of Section 4 of the Draft provided for a waiting period of 15 days before a filing should become effective, with a further provision that the period could be extended by the Commissioner for an additional period not to exceed 15 days, in the event that the Commissioner required additional time for the filing. The All-Industry Committee stated that further consideration had been given to extend the period of time in each instance as requested by your Sub-Committee in French Lick. Attention was called to the fact that the draft of the Commissioners' bill of January 18, 1946, a 30 day limit had been fixed. The counter proposals made by the All-Industry Committee indicated an overwhelming sentiment for the preservation of the 30 day period.

After reconsidering the matter, your Committee was of the opinion that the 30 day period was consistent with the action taken at the meeting of the National Association of Insurance Commissioners at Grand Rapids in December, 1945, and accordingly agreed to withdraw its previous objection. As the draft now stands it is agreed that the draft of the bill dated April 19, 1946, insofar as the waiting period is concerned, will be acceptable. It is believed by your Committee that the Industry will continue the practice of submitting material concerning rate filings in advance of the official filing. The continuance of this practice will afford the Commissioner the opportunity for preliminary consideration which the additional 15 day period in the law would have accomplished.

3. A further point of difference between your Sub-Committee and the All-Industry Committee at French Lick, Indiana, had reference to the waiving of the filing of rates. The differences between the All-Industry Committee and the Sub-Committee were not resolved at the Chicago meeting and therefore this matter was left open for consideration at the next session at Atlantic City.

4. Subsection G of Section 4, of the draft of April 19, covered the matter of the charging of a rate in excess of that provided by a filing insofar as any specific risks might be concerned. It further provided that such excess rate could be charged upon the written application of the insured, stating his reasons therefor, filed with and approved by the Commissioners. The section provided further "such approval shall be given if the Commissioner is satisfied that the insured knows the rate otherwise applicable and consents to the excess rate".

As previously explained this section was designed to cover the situation of a sub-standard risk. Your Sub-Committee was of the opinion that the last sentence of the proposed section which required the Commissioner's approval placed a mandatory obligation upon the Commissioner without justification. It was suggested by your Committee and agreed to by the All-Industry Committee that the latter provision be omitted. Your Committee suggested that an explanation of the intent of this section should be contained in the explanatory memorandum accompanying the bill.

5. As previously reported, the section covering deviations as contained in your Committee's proposed draft of January 18, 1946, provided approval of a uniform percentage decrease or increase in premiums. Considerable time was devoted to a discussion of this section, but no agreement was reached. Your Committee requested that the industry give further consideration to the improvement of this section in the interest of competition. This matter was left for consideration at the next meeting.

6. In the January 18, 1946, draft of the Commissioners' bill, the Commissioner was empowered to issue an order affirming or reversing the action of a rating organization in connection with an appeal by a minority group or groups. Since the meeting held at French Lick, the All-Industry Committee had given further consideration to the objections raised by your Committee to the fact that the bill proposed by the latter limited the Commissioner to affirmation and provided that if the Commissioner was not in accord he could only send the matter back to the rating organization for further consideration. At that time, it was pointed out by your Committee that if a rating organization should reject a solitary change in or an addition to the filing of a rating organization the Commissioner should not be limited in protecting interests of a minority having a meritorious suggestion. The latter constituted the principal objection to the All-Industry's draft. In an effort to meet your Committee's objection on this score, the draft of April 19, 1946, submitted to your Committee for its consideration included the power to reverse in those cases where the rating organization had rejected a proposed addition to its filings.

After discussion your Committee agreed to the provision as contained in the draft of Section 8, dated April 19, 1946.

7. In the Commissioner's draft of January 18, 1946, it was provided that any person or organization aggrieved by the action of the Commissioner with respect to any filing might make written request to the Commissioner for a hearing. At the French Lick meeting, the All-Industry Committee presented a draft of the bill in which a request for a hearing was limited to an insurer, a rating organization or an insured person. The All-Industry Committee was informed that in the opinion of your Committee, the public interest would best be served if any aggrieved person were accorded the privilege of obtaining a hearing. The All-Industry Committee at the present meeting did not offer any suggestion for meeting this problem. Therefore your Committee drafted a proposed sub-section to cover the situation. The same was submitted to the All-Industry Committee which in turn prepared a further draft which was presented to your Committee at the conclusion of the meeting. No action could be taken thereon and the matter has been held over for further consideration by your Committee.

8. At the meeting held in French Lick, Section 2 of the Commissioners' draft of January 18, 1946, with respect to types of coverage subject to regulation by more than one regulatory act was discussed with the All-Industry Committee. At that time your Committee informed the All-Industry Committee that the provisions contained in the Commissioners' draft with respect to this matter was preferable to that contained in the draft of April 19, 1946. At the said meeting, the All-Industry Committee indicated that there was

not complete accord among the members of the All-Industry Committee, even as to the provisions proposed in the Casualty and Surety Rate Regulatory Bill of April 19, 1946. At the present meeting, your Committee inquired as to the status of the matter and was informed that the members of the All-Industry Committee had not yet been able to resolve the various questions among themselves and that they were still not in complete accord. They stated that they were giving the matter their further consideration and hoped to be able to present an acceptable provision to your Committee at the next meeting on the bill.

9. At the meeting held in French Lick, your Committee discussed with the All-Industry Committee the matter of Section 11 of the Commissioners' draft of January 18, 1946, covering penalties imposed for violation of the Act. The All-Industry Committee felt that no penalty should be imposed for a violation other than a wilful violation, and requested your Committee to permit an amendment which would provide for penalty only where a violation was committed wilfully. Your Committee informed the All-Industry Committee that the request could not be acceded to. Accordingly, Section 11 of the Commissioners' draft has been agreed upon, except that the amounts have been reduced from \$250 and \$1,000 to \$50 and \$500 respectively.

10. In the Casualty draft dated April 19, 1946, a section prohibiting rebates was proposed. Your Committee called to the attention of the All-Industry Committee the fact that in many States the Insurance Laws contained prohibitions against rebates and that therefore the model rating bills should not carry such a section. Your Committee suggested to the All-Industry Committee that it would be preferable to have any proposed section dealing with rebates submitted as an addendum to the model bill so that each State could take such action as it wished to make its own determination as to whether it should continue the present rebate laws or adopt a prohibition against rebating as part of its rating law. It was also suggested that the form of addendum submitted by the All-Industry Committee with the draft of February 28, 1946, should be used. The All-Industry Committee agreed to both these suggestions made by your Committee.

11. In the draft of April 19, 1946, the All-Industry Committee made certain changes in connection with the forms of insurance which were to be excluded from the Act. The matter of the exclusion of aircraft was discussed at considerable length. Your Committee informed the All-Industry group that it did not favor the exclusion for the reason, among others, that the business should be susceptible to the regulation by States and that no State should relinquish its right to carry out the supervision. The All-Industry Committee was further advised that in the opinion of your Committee the pool operations in the aviation branch of the business might well be held to be in contravention of the Anti-Trust Laws against price fixing by companies, and that therefore the aviation insurance underwriters would be most vulnerable to any charges of violation of the Anti-Trust Laws. Your Committee informed the All-Industry Committee that it was cognizant of the fact that reliable experience is not now available and that the general situation regarding aircraft insurance militated against satisfactory rate regulation at this time. The All-Industry Committee stated that the views of the Commissioners were cogent but that the industry itself was in a position where it could not resolve the question. It was thereupon agreed that the exclusion of aircraft would remain in the Act but that submission of the bill should be accompanied by an explanatory memorandum embodying the foregoing points.

12. Section 3-(a) of the draft of April 19, 1946, requires that all rates shall be made in accordance with certain standards. Section 3-(a)-(1), among other standards, includes a factor for "contingencies". Your Sub-



Committee was of the opinion that the word "contingencies" was indefinite and possibly unnecessary in view of the reference to "all other relevant factors" set forth later in the same sub-section. Certain illustrations were given as to possible contingencies but the Sub-Committee reached no final decision as to this phase of the matter. It was agreed that the matter would be given further consideration and would be discussed at the next meeting with the All-Industry Committee.

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At the meeting held at French Lick, it was decided that the form of the Fire, Marine and Inland Marine Rate Regulatory Bill would follow the Casualty and Surety Rate Regulatory Bill with such changes, however, as would be necessitated by differences in the manner of operations of the business. In accordance with that understanding, a Fire, Marine and Inland Marine Rate Regulatory Bill, dated April 19, 1946, was considered by your Sub-Committee and the differences between the proposed draft and the Casualty Bill of April 19, 1946, were discussed and explained by the industry group. Following this explanation, your Sub-Committee caused a comparison to be made between the Commissioners' bill approved at the Grand Rapids meeting and subsequently amended by the draft of January 18, 1946, and the Fire, Marine and Inland Marine Rate Regulatory Bill, dated April 19, 1946, submitted at this meeting and hereinafter referred to as the Fire, Marine and Inland Marine draft of April 19, 1946. Eighteen points of difference were found to exist. The differences were taken up with the All-Industry Committee, as a result of which the All-Industry Committee agreed to amend the bill in accordance with your Sub-Committee's recommendations. After these differences had been reconciled, there still remained for discussion five points, as follows:

1. In the Commissioners' draft of January 18, 1946, Section 2, covering the scope of the act, provided that the act should apply to fire and marine insurance and allied lines. In the draft of April 19, 1946, submitted to your Committee the words "allied lines" were omitted and in place thereof the All-Industry Committee attempted specifically to cover the matter of inland marine insurance and set up what in effect was a definition of the lines embraced within that subject. The All-Industry suggestion read as follows:

"Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the Commissioner \* \* \*, or as established by general custom of the business, as inland marine insurance."

The Sub-Committee raised the point that possibly a better definition of inland marine insurance could be devised and so reported to the All-Industry Committee, which agreed to give the matter further consideration.

2. The draft of April 19, 1946, contained a provision with respect to rates subject to more than one rate regulatory act and contained the same provision as is contained in the Casualty and Surety Rate Regulatory Bill. The matter of this alleged "overlapping coverage" has been covered hereinbefore under point 8.

3. Basic classifications. See Section 3-(a). The All-Industry Committee explained that the foregoing language had been omitted because of doubt concerning the meaning of same. Your Committee decided to do some research on its own account and to consider the desirability of omitting the language at its next meeting.

4. Under Section 3-(a)-(3) of the draft of April 19, 1946, which covers the factors to be taken into consideration in connection with the making of rates, provision is made for a "reasonable margin for underwriting profit and contingencies". In some rate regulatory statutes the word "underwriting" is omitted. There are different and conflicting philosophies as to

what factors should be considered in determining profits for rate regulatory purposes. A sub-committee of the Fire and Marine Committee of the National Association of Insurance Commissioners is now engaged in reconsidering the National Association of Insurance Commissioners' 1921 profit formula for use in fire rate making. This subject was explored by your sub-committee with the All-Industry Committee and is to receive further consideration. No final action was taken. With regard to the word "contingencies" this matter has been hereinbefore discussed under point 12 of this report.

5. Section 6-(f) of the draft of April 19, 1946, provides that "any rating organization may subscribe for or purchase actuarial, technical or other services and such services shall be available to all members and subscribers without discrimination." One of the major questions confronting the All-Industry Committee and your Sub-Committee is that of dealing with organizations which assist and make recommendations to rating bureaus in regard to rates and other activities of rating bureaus. The legislative treatment of these organizations is tied in directly with Section 6-(f) and it was decided to defer any action on 6-(f) at this time until the Sub-Committee had had an opportunity to consider that section along with the proposed method of dealing with organizations which assist and make recommendations to rating bureaus. The same observations apply with equal force to groups, associations or organizations of insurers engaged in joint underwriting or reinsurance of property or risks.

The Sub-Committee deems it unnecessary to set forth in detail in this report those matters upon which agreement was reached by the Sub-Committee and the All-Industry Committee and which will be reflected in a revised draft. The revised draft, when submitted, will be compared with the recommendations made by your Sub-Committee to ascertain whether there has been substantial compliance therewith. An explanatory memorandum will accompany the final draft if agreed upon between your Committee and the All-Industry Committee.

Your Sub-Committee will confer with the Drafting Committee of the All-Industry group and the All-Industry Committee at Atlantic City on April 29, to May 2, inclusive.

#### SUB-COMMITTEE OF THE COMMITTEE ON RATES AND RATING ORGANIZATIONS

CHARLES F. J. HARRINGTON, *Chairman*, Massachusetts  
ROBERT E. DINEEN, New York  
NEWELL R. JOHNSON, Minnesota

#### REPORT OF THE COMMITTEE ON RATES AND RATING ORGANIZATIONS

FRENCH LICK, INDIANA

March 11-14, 1946

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The Committee on Rates and Rating Organizations met with the All-Industry Committee at French Lick, Indiana, on March 11, 12, 13, and 14, 1946, for the purpose of giving further consideration to the matter of uniform rating legislation. The following members of the Committee were in attendance:

Hon. Charles F. J. Harrington, Massachusetts, *Chairman*  
Hon. Robert E. Dineen, New York  
Hon. Newell R. Johnson, Minnesota  
Hon. James M. McCormack, Tennessee  
Hon. Seth B. Thompson, Oregon

Also present were the following members of the National Association of Insurance Commissioners:

Hon. W. Ellery Allyn, Connecticut  
Hon. Walter Dressel, Ohio  
Hon. David A. Forbes, Michigan  
Hon. Nelis A. Parkinson, Illinois  
Hon. John D. Pearson, Indiana

as well as a number of Department representatives of various states.

In our report to the semi-annual session of the National Association of Insurance Commissioners on December 5, 1945, your Committee made the following comment:—"The Committee makes no claim that the proposed bills represent the ultimate or last word in rating bills. It is recognized that the science of rate regulation is a progressive one and that changes in thinking will occur as our experience and stock of knowledge increase". With this comment in mind, your Committee gave consideration to an alternative approach to the prior approval of rates which had been given consideration at a previous meeting of the All-Industry Committee held at the Hotel New Yorker, New York City, January 23-25, 1946; at which time, six points were outlined for discussion and report. The six points are as follows:

- (1) A waiting period to be specified.
- (2) A mandate to the Commissioner to review filings submitted to him.
- (3) In the event that he requires further time for review then time limit to be specified.
- (4) If he does not approve or disapprove, then it will be assumed that the filing meets the standards of the act.
- (5) He may authorize any filing to become effective before the waiting period provided for in the act expires.
- (6) Any subsequent disapproval by the Commissioner would not be retro-active.

Commissioner Harrington inquired regarding the said six points and was informed that the members of the All-Industry Committee had agreed upon the same and had incorporated the said points in a proposed casualty and surety rating bill. Mr. Hugh Harbison then presented to the Commissioners the proposed bill which, in addition to incorporating the six points, was to some extent a revision of the bill prepared by your Committee under date of January 18, 1946, a copy of which had previously been sent to the members of the National Association of Insurance Commissioners. The draft used by your Committee at this meeting was dated February 28, 1946, and included changes agreed upon through that date. Mr. Harbison proceeded to point out wherein the All-Industry Committee had incorporated in its draft the six points. After this presentation and in view of the fact that the Commissioners had not had the benefit of studying the proposed bill in advance of the meeting, your Committee went into executive session.

A comparison was made between your Committee's draft of January 18, 1946, and the proposed bill submitted by the All-Industry Committee. It was found that there were eighteen points of difference between the two drafts. Your Committee then met with the All-Industry Committee and the eighteen points were submitted with the request that the All-Industry Committee consider the same. Thereafter the All-Industry Committee reported back and agreed to the Commissioners' views on eleven of the points raised. The area of disagreement was thereby narrowed to seven points as follows:

- (1) Section 1 of the draft covers the purposes of the act which includes as one of the purposes, " \* \* \* to authorize and regulate cooperative action among insurers in ratemaking and in other matters within the scope of this act".



Your Committee was hesitant to use language which might be construed as an omnibus approval of all cooperative action in ratemaking. Your Committee suggested that the reference to regulation be omitted.

- (2) Among the provisions contained in Section 4, the All-Industry Committee submitted a clause which concerned itself with the date when a filing should become effective. The All-Industry Committee draft provided that " \* \* \* each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the Commissioner for an additional period not to exceed fifteen days \* \* \* " in the event that a Commissioner needed additional time for consideration of the filing.

Your Committee felt that the waiting period before the rate became effective should be thirty days rather than fifteen days with an additional period of fifteen days in the event that the Commissioner required further time for consideration of the filing, in all a total of forty-five days.

- (3) A further point of difference between the Commissioners and the All-Industry Committee concerned itself with the waiving of the filing of rates. The All-Industry draft provided that "Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used".

Your Committee suggested that a further provision be added authorizing the Commissioner to waive a filing in any case where he considered the same unnecessary, or impractical as to kind, class, subdivision or combination of insurance.

- (4) Under section 4, of the draft submitted by the All-Industry Committee, it was provided "A rate in excess of that provided by a filing otherwise applicable may be used on any specific risk with the written consent of the Commissioner and the insured".

Upon inquiry the representatives of the All-Industry Committee explained that this section was intended to cover the situation of a sub-standard risk. Your Committee was of the opinion that a reference should be embodied in the section to establish the intent more clearly.

- (5) Under the heading of "Deviations" your Committee in its proposed draft of January 18, 1946, provided for approval of a uniform percentage decrease or increase on premiums produced by a rating system for a kind, *class or classes* of insurance or for a sub-division or combination thereof for which the application of separate expense provisions *had been approved* by the Commissioner. In the All-Industry Committee draft it was provided that application could be made for a uniform percentage decrease or increase " \* \* \* to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a sub-division or combination thereof for which sub-division or combination *separate expense provisions are applicable*".

The attention of the All-Industry Committee was called to the fact that in its draft the reference to class or classes of insurance had been omitted and that a material change had been made with regard to deviations in connection with rates to which separate expense provisions were applicable. It was suggested to the All-Industry Committee that they reconsider the section in order to make the same more elastic in order to meet the problem administratively and provide "that competitive rates on a sound, financial basis" be made available to the public under this section.

- (6) In the January 18, 1946, draft of Commissioners' bill, the Commissioner was empowered to make an order affirming or reversing the ac-

tion of the rating organization. The All-Industry Committee in its draft covering the same subject omitted the provision for affirmance or reversal and in its place substituted a provision authorizing the Commissioner to " \* \* \* issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal".

Your Committee felt that in dealing with appeals by minorities the elimination of the power to reverse in fact emasculated the section; that the absence of any power of reversal would for all practical purposes make the appeal procedure a mere gesture insofar as the Commissioner was concerned.

- (7) The Commissioner's draft of January 18th provided that any person or organization aggrieved by the action of the Commissioner with respect to any filing might make written request to the Commissioner for a hearing thereon. In the All-Industry draft of the bill a request for a hearing was limited to an insurer, a rating organization or insured person.

Your Committee was of the opinion that the suggestion advanced by the All-Industry Committee resulted in too great a restriction and that any aggrieved person should have the right to request a Commissioner to grant a hearing.

The foregoing points of the difference were discussed at considerable length between Commissioners and the All-Industry Committee and a full exchange of views was had. The All-Industry Committee reported that it could not agree at that time with the views expressed by your Committee. However, the All-Industry Committee did not foreclose further discussion and it was suggested that the various representatives of the industry reconsider the points with their respective principals and among themselves, and be prepared to renew conferences with your Committee at a later date.

Under section 2, of the Commissioners' draft of January 18, 1946, it was provided that if a kind of insurance or type of coverage subject to the act is also subject to regulation by another rate regulatory act of the State, the insurer with the consent of the Commissioner might designate which regulatory act would be applicable. The All-Industry Committee in its draft proposed to omit the consent of the Commissioner, but indicated that among its own members there was not a complete accord on the proposal contained in the All-Industry bill. The matter was left for further consideration.

Section 5, of the Commissioners' draft of January 18, provides for the licensing of rating organizations and states that if the Commissioner finds that the organization is competent, trustworthy and otherwise qualified and that its constitution, articles of agreement, etc., governing the conduct of its business *are reasonable* and conform to the requirements of law *and that a granting of a license is in the public interest*, he shall issue a license. The All-Industry Committee draft omitted reference to reasonableness and the public interest. Your Committee took the position that it would not be in the public interest to permit rating organizations to adopt constitutions, by-laws, etc., which permitted boycott, coercion or intimidation in violation of United States Public Law 15. However, since the Industry adopted the words "of law" instead of the words "this act", it may be assumed it is the intent of this provision that the constitutions, by-laws, etc., will conform to the provisions of all laws, State as well as Federal. After discussion it was agreed that in the event of introduction in any State of the model rating bill, the bill would be accompanied by a memorandum explaining the significance of the words "of law".

In the course of the meeting and at the request of your Committee, the members of the All-Industry Committee present at the meeting unanimously adopted a resolution in support of the six points hereinbefore referred to. The only member of the All-Industry Committee missing was Mr. Floyd Jacobs representing the Reciprocals. It was stated by Mr. Alfred Gruhn that he anticipated the agreement of the Reciprocals to the six points.

The matter of a bill to cover the fire insurance business was also discussed. It was agreed that your Committee should conclude its deliberations in connection with the casualty and surety bill; after reaching an accord the casualty and surety bill will be used for the fire insurance business with such changes as may be necessary to make the bill applicable. It was suggested that representatives of the fire insurance industry present a proposed draft of a bill for discussion in advance of the next meeting of the Drafting Sub-Committee.

On motion made by Commissioner Thompson, a resolution was adopted empowering the Drafting Sub-Committee of the Committee on Rates and Rating Organizations, to take such action as it may determine in connection with the completion of the drafting of rate regulatory legislation.

The members of the All-Industry Committee have labored diligently to reduce areas of disagreement concerning the solution of the rating problems. It can be stated without fear of contradiction that astonishing success has been achieved. Your Committee has been the beneficiary of a prodigious amount of research undertaken by the insurance industry. We acknowledge gratefully the intelligent and gracious contribution of the All-Industry Committee.

In conclusion, let us reiterate our previous comment that even the bill we are now discussing does not represent "the ultimate or last word in rating bills. It is recognized that the science of rate regulation is a progressive one and that changes in thinking will occur as our experience and stock of knowledge increase".

CHARLES F. J. HARRINGTON, *Chairman*, Massachusetts

ROBERT E. DINEEN, New York

NEWELL R. JOHNSON, Minnesota

J. EDWIN LARSON, Florida

JAMES M. McCORMACK, Tennessee

SETH B. THOMPSON, Oregon

## CASUALTY AND SURETY RATE REGULATORY BILL

Draft of May 18, 1946

AN ACT relative to the regulation of rates for certain casualty insurance including fidelity, surety and guaranty bonds and for all other forms of motor vehicle insurance, and to rating organizations [and repealing sections.....].

BE IT ENACTED [By.....]:

### SEC. 1 — PURPOSE OF ACT

The purpose of this Act is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Act. Nothing in this Act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This Act shall be liberally interpreted to carry into effect the provisions of this Section.



## SEC. 2 — SCOPE OF ACT

This Act applies to casualty insurance <sup>(1)</sup>, including fidelity, surety and guaranty bonds, and to all other forms of motor vehicle insurance, on risks or operations in this state, except:

- (a) reinsurance, other than joint reinsurance to the extent stated in Section 11;
- (b) accident and health insurance;
- (c) insurance against loss of or damage to aircraft or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;
- (d) insurance against <sup>(2)</sup> .....

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this Act, is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the [commissioner of insurance], hereinafter referred to as [commissioner], a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

## SEC. 3 — MAKING OF RATES

- (a) All rates shall be made in accordance with the following provisions:

1. Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for <sup>(3)</sup> profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state;

2. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

- 4. Rates shall not be excessive, inadequate or unfairly discriminatory.

(b) Except to the extent necessary to meet the provisions of subdivision 4 of subsection (a) of this Section, uniformity among insurers in any matters within the scope of this Section is neither required nor prohibited.

## SEC. 4 — RATE FILINGS

- (a) Every insurer shall file with the [commissioner] every manual of classifications, rules and rates, every rating plan and every modification of any of the

(1)The words "casualty insurance" are used herein in their generally accepted trade sense. The wording of the section should be fitted to any laws of the state which classify insurance.

(2)Here list any other kinds of casualty insurance to which this Act does not apply.

(3)The All-Industry Conference Committee believes the word "underwriting" should precede the word "profit." The National Association of Insurance Commissioners is giving further study to this matter.

foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filing. A filing and supporting information shall be open to public inspection after the filing becomes effective.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the [commissioner] to accept such filings on its behalf; provided, that nothing contained in this Act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The [commissioner] shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this Act.

(d) Subject to the exception specified in subsection (e) of this Section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the [commissioner] for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the [commissioner] may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this Act unless disapproved by the [commissioner] within the waiting period or any extension thereof.

(e) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this Act until such time as the [commissioner] reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations as he shall adopt the [commissioner] may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The [commissioner] may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision 4 of subsection (a) of Section 3.

(g) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the [commissioner], a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(h) Beginning ninety days after the effective date of this Act no insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this Section.

#### SEC. 5 — DISAPPROVAL OF FILINGS

(a) If within the waiting period or any extension thereof as provided in subsection (d) of Section 4, the [commissioner] finds that a filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this Act and stating that such filing shall not become effective.

(b) If within thirty days after a special surety or guaranty filing subject to subsection (e) of Section 4 has become effective, the [commissioner] finds that

such filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this Act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this Section, the [commissioner] finds that a filing does not meet the requirements of this Act, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filings shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the [commissioner] for a hearing thereon, provided, however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the [commissioner] shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing.

If, after such hearing, the [commissioner] finds that the filing does not meet the requirements of this Act, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

## SEC. 6—RATING ORGANIZATIONS

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the [commissioner] for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state upon whom notices or orders of the [commissioner] or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the [commissioner] finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the [commissioner] within sixty days of the date of its filing with him. Licenses issued pursuant to this Section shall remain in effect for three years unless sooner suspended or re-



voked by the [commissioner]. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this Section may be suspended or revoked by the [commissioner], after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the [commissioner] promptly of every change in (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the [commissioner] or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the [commissioner] as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the [commissioner] at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the [commissioner] finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the [commissioner] as if the application had been rejected. If the [commissioner] finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this Act is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this Act which are applicable to filings generally. The [commissioner] may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.

#### SEC. 7 — DEVIATIONS

Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the [commissioner] for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the [commissioner] to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (2) for which separate expense provisions are included in the filings of the rating organization. Such appli-

cation shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization. The [commissioner] shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the [commissioner] is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The [commissioner] shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the [commissioner].

#### SEC. 8—APPEAL BY MINORITY

Any member of or subscriber to a rating organization may appeal to the [commissioner] from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the [commissioner] shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subdivision 2 of subsection (a) of Section 3, from the system of expense provisions included in a filing made by the rating organization, the [commissioner] shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the [commissioner] shall apply the standards set forth in Section 3.

#### SEC. 9—INFORMATION TO BE FURNISHED INSURED; HEARINGS AND APPEALS OF INSURED

Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the [commissioner], who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

## SEC. 10 — ADVISORY ORGANIZATIONS

(a) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this Act, shall be known as an advisory organization.

(b) Every advisory organization shall file with the [commissioner] (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state upon whom notices or orders of the [commissioner] or process issued at his direction may be served, and (4) an agreement that the [commissioner] may examine such advisory organization in accordance with the provisions of Section 12 of this Act.

(c) If, after a hearing, the [commissioner] finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this Section or with an order of the [commissioner] involving such statistics or recommendations issued under subsection (c) of this Section. If the [commissioner] finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

## SEC. 11 — JOINT UNDERWRITING OR JOINT REINSURANCE

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this Act and, with respect to joint reinsurance, to Sections 12 and 16 to 20 of this Act.

(b) If, after a hearing, the [commissioner] finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.

SEC. 12 — EXAMINATIONS <sup>(4)</sup>

The [commissioner] shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state as provided in Section 6 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in Section 10 and of each group, association or other organization referred to in Section 11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization,, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organization, advisory

<sup>(4)</sup>Under the laws of several of the states, reports of examinations are not made public until the organization examined has an opportunity to review the proposed report and to have a hearing with reference thereto, after which hearing the report is filed for public inspection and becomes admissible in evidence as a public record. In any state that has no such law, it is suggested that provisions to this effect be adopted.



organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the [commissioner] may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

### SEC. 13 — RATE ADMINISTRATION

#### (a) Recording and Reporting of Loss and Expense Experience.

The [commissioner] shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in Section 3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the [commissioner] shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The [commissioner] may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the [commissioner], to insurers and rating organizations.

#### (b) Interchange of Rating Plan Data.

Reasonable rules and plans may be promulgated by the [commissioner] for the interchange of data necessary for the application of rating plans.

#### (c) Consultation with Other States.

In order to further uniform administration of rate regulatory laws, the [commissioner] and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

#### (d) Rules and Regulations.

The [commissioner] may make reasonable rules and regulations necessary to effect the purposes of this Act.

### SEC. 14 — FALSE OR MISLEADING INFORMATION

No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the [commissioner], any statistical agency designated by the [commissioner], any rating organization, or any insurer, which will affect the rates or premiums chargeable under this Act. A violation of this Section shall subject the one guilty of such violation to the penalties provided in Section 16 of this Act.

### SEC. 15 — ASSIGNED RISKS <sup>(5)</sup>

Agreements may be made among insurers with respect to the equitable appor-

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<sup>(5)</sup>This section does not purport to deal with the question as to whether assigned risk plans should be voluntary or statutory, nor as to what features, including judicial review, should be contained in such plans. If these questions are to be dealt with by statutory provision such provision should preferably be in another statute.

tionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the [commissioner].

# SEC. 16 — PENALTIES

The [commissioner] may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than fifty dollars (\$50) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars (\$500) for each such violation. Such penalties may be in addition to any other penalty provided by law <sup>(6)</sup>.

The [commissioner] may suspend the license of any rating organization or insurer which fails to comply with an order of the [commissioner] within the time limited by such order, or any extension thereof which the [commissioner] may grant. The [commissioner] shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The [commissioner] may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the [commissioner], stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

# SEC. 17 — HEARING PROCEDURE AND JUDICIAL REVIEW

(a) Any insurer or rating organization aggrieved by any order or decision of the [commissioner] made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the [commissioner] for a hearing thereon. The [commissioner] shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the [commissioner] shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the [commissioner] may suspend or postpone the effective date of his previous action.

(b) Nothing contained in this Act shall require the observance at any hearing of formal rules of pleading or evidence.

(c) Any order or decision of the [commissioner] shall be subject to review *(here insert language indicating scope of the review)* ..... by [appeal]\* [writ of certiorari]\* to [the ..... court]\* at the instance of any party in interest.

The court shall determine whether the filing of the [appeal]\* [petition for such writ]\* shall operate as a stay of any such order or decision of the [commissioner]. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the [commissioner] in whole or in part.

<sup>(6)</sup>In some states the imposition of fines by administrative officers is prohibited by basic law. It may be necessary to modify this section to provide for the imposition of fines and penalties by some other appropriate state authority.

\*Consideration should be given to the practice and procedure in each state.

## SEC. 18—LAWS REPEALED

Sections ..... of the statutes of this state are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

## SEC. 19—CONSTITUTIONALITY

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

## SEC. 20—EFFECTIVE DATE

This Act shall take effect (?).....

# ADDITIONAL SECTION RECOMMENDED FOR STATE WHICH HAS INADEQUATE ANTI-REBATE LAW OR HAS NO SUCH LAW

## SEC. ( )—REBATES PROHIBITED

No broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of this Act. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this Section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents and brokers, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits.

As used in this Section the word "insurance" includes suretyship and the word "policy" includes bond.

## FIRE, MARINE AND INLAND MARINE RATE REGULATORY BILL

Draft of May 18, 1946

AN ACT relative to the regulation of rates for fire, marine and inland marine insurance, and to rating organizations [and repealing sections.....].  
BE IT ENACTED [By.....]:

## SEC. 1—PURPOSE OF ACT

The purpose of this Act is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly dis-

(7)The effective date of this Act should be set sufficiently ahead to allow the insurance department, the companies and the rating organization to prepare themselves with necessary personnel and procedures to carry out the purposes of the Act. Under the provisions of subsection (h) of section 4, the provisions of the Act go into effect as to the use of regulated rates 90 days after the effective date of the Act. It is, therefore, recommended that such effective date should be not later than October 1, 1947, which is 90 days prior to January 1, 1948, when the moratorium under Public Law 15 ends.



criminary, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Act. Nothing in this Act is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This Act shall be liberally interpreted to carry into effect the provisions of this Section.

## SEC. 2 — SCOPE OF ACT

This Act applies to fire, marine and inland marine insurance,<sup>1</sup> on risks located in this state. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the [commissioner of insurance], hereinafter referred to as [commissioner], or as established by general custom of the business, as inland marine insurance.

This Act shall not apply :

(a) To reinsurance, other than joint reinsurance to the extent stated in Section 11;

(b) To insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(c) To insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;

(d) To motor vehicle insurance nor to insurance against liability arising out of the ownership, maintenance or use of motor vehicles.

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this Act, is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the [commissioner], a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

## SEC. 3 — MAKING OF RATES

(a) Rates shall be made in accordance with the following provisions :

1. Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

2. Rates shall not be excessive, inadequate or unfairly discriminatory.

3. Due consideration shall be given to past and prospective loss experience within and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for<sup>2</sup> profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state; and in the case of fire insurance rates consideration shall be

<sup>1</sup> The words "fire, marine and inland marine insurance" are used herein in their generally accepted trade sense. The wording of the section should be fitted to any laws of the state which classify insurance.

<sup>2</sup> The All-Industry Conference Committee believes the word "underwriting" should precede the word "profit." The National Association of Insurance Commissioners is giving further study to this matter.

given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.

(b) Except to the extent necessary to meet the provisions of subdivision 2 of subsection (a) of this Section, uniformity among insurers in any matters within the scope of this Section is neither required nor prohibited.

(c) Rates made in accordance with this Section may be used subject to the provisions of this Act.

#### SEC. 4 — RATE FILINGS

(a) Every insurer shall file with the [commissioner], except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filing. A filing and supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the [commissioner].

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the [commissioner] to accept such filings on its behalf; provided, that nothing contained in this Act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The [commissioner] shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this Act.

(d) Subject to the exception specified in subsection (e) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the [commissioner] for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the [commissioner] may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this Act unless disapproved by the [commissioner] within the waiting period or any extension thereof.

(e) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this Act until such time as the [commissioner] reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations as he shall adopt the [commissioner] may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The [commissioner] may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision 2 of subsection (a) of Sec. 3.

(g) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the [commissioner], a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(h) Beginning ninety days after the effective date of this Act no insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in this Act or in accordance with subsections (f) or (g) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required.

#### SEC. 5 — DISAPPROVAL OF FILINGS

(a) If within the waiting period or any extension thereof as provided in subsection (d) of Section 4, the [commissioner] finds that a filing does not meet the requirements of this Act, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this Act and stating that such filing shall not become effective.

(b) If within thirty days after a specific inland marine rate on a risk specially rated by a rating organization, subject to subsection (e) of Section 4 has become effective, the [commissioner] finds that such filing does not meet the requirements of this Act, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this Act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the [commissioner] finds that a filing does not meet the requirements of this Act, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the [commissioner] for a hearing thereon, provided, however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the [commissioner] shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing. If, after such hearing, the [commissioner] finds that the filing does not meet the requirements of this Act, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

#### SEC. 6 — RATING ORGANIZATIONS

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the [commissioner] for license as a rating organization for such kinds of insurance,



or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state upon whom notices or orders of the [commissioner] or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the [commissioner] finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the [commissioner] within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the [commissioner]. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the [commissioner], after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the [commissioner] promptly of every change in (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the [commissioner] or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the [commissioner] as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the [commissioner] at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the [commissioner] finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the [commissioner] as if the application had been rejected. If the [commissioner] finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this Act is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this Act which are applicable to filings generally. The [commissioner] may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or un-

reasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.

(e) Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the [commissioner] thereof. All information so submitted for examination shall be confidential.

(f) Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

### SEC. 7 — DEVIATIONS

Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the [commissioner] for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The [commissioner] shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the [commissioner] is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation the [commissioner] shall give consideration to the available statistics and the principles for rate making as provided in Section 3 of this Act. The [commissioner] shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the [commissioner].

### SEC. 8 — APPEAL BY MINORITY

Any member of or subscriber to a rating organization may appeal to the [commissioner] from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the [commissioner] shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

### SEC. 9 — INFORMATION TO BE FURNISHED INSUREDS. HEARINGS AND APPEALS OF INSUREDS

Every rating organization and every insurer which makes its own rates shall,

within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the [commissioner], who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

#### SEC. 10 — ADVISORY ORGANIZATIONS

(a) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this Act, shall be known as an advisory organization.

(b) Every advisory organization shall file with the [commissioner] (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state upon whom notices or orders of the [commissioner] or process issued at his direction may be served, and (4) an agreement that the [commissioner] may examine such advisory organization in accordance with the provisions of Section 12 of this Act.

(c) If, after a hearing, the [commissioner] finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filing nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the [commissioner] involving such statistics or recommendations issued under subsection (c) of this section. If the [commissioner] finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

#### SEC. 11 — JOINT UNDERWRITING OR JOINT REINSURANCE

(a) Every group, association or other organization of insurers which engages in joint underwritings or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this Act and, with respect to joint reinsurance, to Sections 12 and 15 to 19 of this Act.

(b) If, after a hearing, the [commissioner] finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.



SEC. 12 — EXAMINATIONS<sup>3</sup>

The [commissioner] shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state as provided in Section 6 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in Section 10 and of each group, association or other organization referred to in Section 11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the [commissioner] may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

## SEC. 13 — RATE ADMINISTRATION

## (a) Recording and Reporting of Loss and Expense Experience.

The [commissioner] shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in Section 3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the [commissioner] shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The [commissioner] may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the [commissioner], to insurers and rating organizations.

## (b) Interchange of Rating Plan Data.

Reasonable rules and plans may be promulgated by the [commissioner] for the interchange of data necessary for the application of rating plans.

## (c) Consultation with Other States.

In order to further uniform administration of rate regulatory laws, the [commissioner] and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

## (d) Rules and Regulations.

The [commissioner] may make reasonable rules and regulations necessary to effect the purposes of this Act.

<sup>3</sup> Under the laws of several of the states, reports of examinations are not made public until the organization examined has an opportunity to review the proposed report and to have a hearing with reference thereto, after which hearing the report is filed for public inspection and becomes admissible in evidence as a public record. In any state that has no such law, it is suggested that provisions to this effect be adopted.

SEC. 14 — FALSE OR MISLEADING INFORMATION

No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the [commissioner], any statistical agency designated by the [commissioner], any rating organization, or any insurer, which will affect the rates or premiums chargeable under this Act. A violation of this section shall subject the one guilty of such violation to the penalties provided in Section 15 of this Act.

SEC. 15 — PENALTIES

The [commissioner] may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than fifty dollars (\$50) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars (\$500) for each such violation. Such penalties may be in addition to any other penalty provided by law.<sup>4</sup>

The [commissioner] may suspend the license of any rating organization or insurer which fails to comply with an order of the [commissioner] within the time limited by such order, or any extension thereof which the [commissioner] may grant. The [commissioner] shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The [commissioner] may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the [commissioner], stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

SEC. 16 — HEARING PROCEDURE AND JUDICIAL REVIEW

(a) Any insurer or rating organization aggrieved by any order or decision of the [commissioner] made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the [commissioner] for a hearing thereon. The [commissioner] shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the [commissioner] shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the [commissioner] may suspend or postpone the effective date of his previous action.

(b) Nothing contained in this Act shall require the observance at any hearing of formal rules of pleading or evidence.

(c) Any order or decision of the [commissioner] shall be subject to review (here insert language indicating scope of the review) . . . . . by [appeal]<sup>5</sup> [writ of certiorari]\* to [the . . . . . court]\* at the instance of any party in interest.

The court shall determine whether the filing of the [appeal]\* [petition for such writ]\* shall operate as a stay of any such order or decision of the [commissioner]. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the [commissioner] in whole or in part.

<sup>4</sup> In some states the imposition of fines by administrative officers is prohibited by basic law. It may be necessary to modify this section to provide for the imposition of fines and penalties by some other appropriate state authority.  
<sup>5</sup> Consideration should be given to the practice and procedure in each state.

## SEC. 17 — LAWS REPEALED

Sections . . . . . of the statutes of this state are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

## SEC. 18 — CONSTITUTIONALITY

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

## SEC. 19 — EFFECTIVE DATE

This Act shall take effect<sup>6</sup> . . . . .

## ADDITIONAL SECTION RECOMMENDED FOR STATE WHICH HAS INADEQUATE ANTI-REBATE LAW OR HAS NO SUCH LAW

### SEC. [ ] — REBATES PROHIBITED

No broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of this Act. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

Nothing in this Section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents and brokers, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends savings or unabsorbed premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.

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<sup>6</sup> The effective date of this Act should be set sufficiently ahead to allow the insurance department, the companies and the rating organizations to prepare themselves with necessary personnel and procedures to carry out the purposes of the Act. Under the provisions of subsection (h) of Section 4, the provisions of the Act go into effect as to the use of regulated rates 90 days after the effective date of the Act. It is, therefore, recommended that such effective date should be not later than October 1, 1947, which is 90 days prior to January 1, 1948, when the moratorium under Public Law 15 ends.



## APPENDIX "D"

REPORT OF THE JOINT MEETING OF RATES AND RATING  
ORGANIZATIONS COMMITTEE AND FEDERAL  
LEGISLATION COMMITTEE

A joint meeting of the Rates and Rating Organizations Committee and Federal Legislation Committee was held at 3:00 p.m. Tuesday, June 11, 1946. The Sub-Committee of the Committee on Rates and Rating Organizations submitted its complete report. Opportunity was given to the Industry for extended discussion of the report, a stenographic copy of which is in the record of the Committees. At the conclusion of the discussion the Committees went into executive session. After further discussion the Sub-Committee report was unanimously adopted, upon motion duly made, seconded and passed.

Pursuant to a motion duly made, seconded and passed the Committee will continue to give consideration to the subject of the Sub-Committee report, including consideration of the suggestions made at the meeting and such further suggestions for improvement or modification of the model rating bills as are received. The Committees will continue their consideration of other applicable federal acts and report to the December, 1946 meeting.

CHAS. F. J. HARRINGTON, Chairman, Massachusetts

ROBERT E. DINEEN, New York

NEWELL R. JOHNSON, Minnesota

JAMES M. McCORMACK, Tennessee

SETH B. THOMPSON, Oregon

J. EDWIN LARSON, Florida

## APPENDIX "E"

JOINT REPORT OF COMMITTEES ON RATES AND RATING  
ORGANIZATIONS AND FEDERAL LEGISLATION OF  
NATIONAL ASSOCIATION OF INSURANCE COM-  
MISSIONERS ON MEETING HELD AT  
HOTEL COMMODORE, NEW YORK,  
OCTOBER 23-26, 1946.

The following members of the committees were present at this meeting:

Charles F. J. Harrington, Massachusetts, Chairman  
Maynard Garrison, California  
J. Edwin Larson, Florida  
Newell R. Johnson, Minnesota  
Robert E. Dineen, New York  
Seth B. Thompson, Oregon

The following Commissioners were also present:

W. Ellery Allyn, Connecticut  
David A. Forbes, Michigan  
Walter Dressel, Ohio  
J. Austin Carroll, Rhode Island

The following departmental personnel also attended:

E. A. Faircloth, Florida  
Alfred J. Bohlinger, New York  
Thomas C. Morrill, New York  
Victor Cohen, New York  
George McAteer, Washington

William C. Green, Assistant Attorney General of the State of Minnesota, was also in attendance.

The All-Industry Committee was in session at the same time and a number of consultations were held between that group and this committee.

The subjects considered by this committee were as follows:

1. Treatment of the Robinson-Patman Act on a state level.
2. Treatment of the Federal Trade Commission Act on a state level.
3. Proposals for the regulation of the accident and health business.

The committee was also asked to consider the regulation of the title insurance business but the pressure of other business prevented that particular problem from being considered at this meeting. Other aspects of the rating problem were likewise not considered for the same reason.

*Robinson-Patman Act*

The committee had before it and gave consideration to the reports of the Robinson-Patman Act Subcommittee of the All-Industry Committee dated September 19, 1945, October 19, 1945 and September 6, 1946. Copies of these reports are attached hereto, made a part hereof and marked Exhibits "A", "B" and "C". These reports were unanimously approved by the All-Industry Committee and for the purpose of this report are treated as the reports of the All-Industry Committee.

The committee voted unanimously to accept these reports. It was the opinion of the committee that the suggested legislative procedure provided an adequate and satisfactory method of dealing with the Robinson-Patman Act on a state level and the committee recommends for use in the states the proposals therein contained.

*Federal Trade Commission Act.*

Numerous proposals as to how this problem should be treated were considered.

In general and in brief, the following proposals were submitted to your committee:

(1) No legislation on a state level should be enacted and the regulation of unfair practices should be left to the Federal Trade Commission.

(2) Each state should enact a so-called "baby federal trade commission act" paralleling the language, in general, of the Federal Trade Commission Act.

(3) Each state should enact a "baby federal trade commission act" with the exception that all prohibited practices should be promulgated by the Commissioner in the form of rules, following notice and hearing to all interested parties. This suggested modification is along the lines of the procedure contained in the Federal Administrative Procedure Act (Public Law 404, 79th Congress).

(4) Each state should pass an act giving the Commissioner the power to restrain and enjoin unfair practices by the use of cease and desist orders. To the extent possible, the legislature should set forth in definitive form the prohibited acts or practices. To the extent that it was not possible for the legislature to do this, the Commissioner should be entrusted with the power to define the additional prohibited acts and practices under the procedure set forth in (3) above.

(5) The Commissioner should be entrusted with the power to issue cease and desist orders in connection with unfair acts and practices. However, all unfair acts and practices are defined by rules promulgated by the Commissioner following notice and hearing, along the lines of the Federal Administrative Procedure Act. This is a so-called "baby federal trade commission act". It becomes a definitive plan, in effect, upon promulgation of rules by the Commissioner.

(6) Under this plan all unfair acts and practices are prohibited. The statute itself contains a list of prohibited acts or practices. Since this list is not all-inclusive, the Commissioner is empowered in all other cases to conduct hearings as to whether or not an act or practice complained of constitutes an unfair act or practice. If it does, the Commissioner makes a report in writing stating his findings. Thereafter, the Commissioner may, through the Attorney General, file a petition in court to restrain the violation. If the court adopts the Commissioner's contention, a cease and desist order is issued by the court. The Commissioner has no power under this proposal to do more than make a finding as to whether or not an act or practice is unfair and he may not issue the cease and desist order himself. With the exception of those prohibited acts or practices specifically enumerated in the statute, the actual definition of an unfair act or practice is by judicial rather than administrative determination, and the issuance of all cease and desist orders, whether or not the practices are enumerated, is entrusted to the courts.

(7) This plan is similar to (6) except that the authority to determine the unenumerated unfair practices and to issue cease and desist orders in all cases is entrusted in the first instance to the Commissioner rather than to the courts.

A refinement of plans (6) and (7) contemplated that the Commissioner should have the power to issue cease and desist orders as to the acts and practices specifically enumerated in the act but not as to those of which he was the arbitrator.

All of the plans considered contained provisions for judicial review.

The merits and demerits of these plans were exhaustively explored and discussed by members of your committee and by other interested parties.

Your committee was unanimous upon the proposition that the regulation of unfair acts and practices should not be left to the Federal Trade Commission in Washington. Its views on this subject have been outlined in previous reports



and in the supporting memoranda of the Commissioners' legislative proposal submitted to the Congress in 1944.

The committee looked with favor upon two alternative methods of dealing with this problem, copies of which are attached and marked Exhibits "D" and "E". In both alternatives unfair methods of competition and unfair or deceptive acts and practices are prohibited. The general idea of these two proposals is based upon the so-called definitive approach, namely, to enumerate specific unfair acts and practices in the business which are generally known. The committee recognized, however, that the enumeration of specific acts and practices would not completely occupy the field and that therefore provision had to be made for an omnibus section to cover unenumerated acts and practices.

The proposals differ, however, in the following respects. One plan (Exhibit "D") follows the procedure outlined in the Federal Trade Commission Act and empowers the Commissioner, after hearing, to determine unfair acts and practices other than those specifically enumerated and to issue cease and desist orders as to all unfair practices whether enumerated or not. Under the alternative proposal (Exhibit "E") the power to make adjudications as to unfair acts and practices and to issue cease and desist orders in connection therewith is given to the courts through the medium of the Attorney General.

These bills are receiving additional study by the members of the committee and will be the subject of further consideration at the committee's next meeting, which will be held some time before the December meeting of the Association in New York.

### *Accident and Health*

Certain conditions in the accident and health business have been a source of grave concern to the members of the National Association of Insurance Commissioners and to the members of this committee. For years many states have passed upon the forms used in the accident and health field. It has been suggested, however, that supervision of forms is not enough and that rates should likewise be supervised, possibly under the ordinary rate regulatory bill. While the committee recognized that this is a possible solution to the problem, the complexities of the accident and health business and the fact that it is transacted by different types of carriers induced the committee to consider first the merits of a separate approach.

The committee is agreed that legislation should be enacted prescribing standards not only for the forms but for the premiums because there is a direct relationship between the coverage and the premium charged. The problem is further complicated because certain companies act in concert and desire to continue that procedure. If these companies are to continue these activities, the committee recognizes that legislation is necessary in this respect.

In addition to regulation of rates under a rate regulatory law, three additional proposals were considered. One was submitted by the Bureau of Personal Accident and Health Underwriters under date of October 16, 1946; another was submitted by the Health and Accident Underwriters Conference under date of October 17, 1946 and a third was developed as a result of a study of these two and legislation now in force in certain states. The first two plans have been widely circularized among the Insurance Departments of the several states and for that reason no copies are attached hereto. While this committee was in session, a telegram was received from Zone 3 expressing its opposition to the proposal of the Health and Accident Underwriters Conference. A copy of the third proposal is attached hereto and marked Exhibit "F".

In substance, the third proposal provides that no policy can be issued unless policy forms, applications, endorsements, classifications of risks and premium charges therefor are filed with the Commissioner. It contains standards for both the forms and the premiums. The standards for the premiums are the customary ones, namely, that they shall not be excessive, inadequate or unfairly discrimina-

tory. The standards for the forms are likewise customary, namely, that they shall not be unjust, unfair, inequitable, misleading, contrary to law or to the public policy of the state.

Under this proposal the Commissioner is empowered, following notice and hearing,, to prevent any company from using any policy form if he finds that it does not meet the standards. It also empowers the Commissioner to call for statistical information from the insurer to enable him to determine whether the standards have been met. Furthermore, it contains provisions authorizing concert of action and subjecting those organizations of insurers which operate in concert to the same supervisory processes substantially contained in the model rate regulatory bills recommended by your committee in so far as licensing, examination, admission to membership, etcetera, are concerned.

It will be noted that this third proposal does not require affirmative approval in advance of forms and rates. The multiplicity of forms in the accident and health business, combined with certain other peculiarities of the business, seemed to make such a requirement impractical at this time. This proposal imposes no burdensome administrative details for dealing with policy contracts which on their face are fair and reasonable; on the other hand, it does provide police power to deal with those policies where, because of inadequacy of coverage or excessiveness of rate, or both, the result is unconscionable and not in the public interest. The practice of approving policy forms in advance is widespread and the optional character of the language employed would enable a Commissioner to adhere to this program under this bill; in short, the bill does not preclude that practice.

The committee has reached no final determination in the matter and is not prepared to express any views upon any of the proposals until the conclusion of its further studies. Further consideration of the whole problem will be given by the committee at its next meeting which, as stated above, will be held prior to the December meeting of the Association in New York.

#### *Title Insurance*

The committee received communications from Commissioner Larson of Florida and former Superintendent Scheufler of Missouri requesting the committee to consider the question of regulation of title insurance rates in view of the fact that in certain sections of the country such rates are made in concert. Time did not permit the committee to consider this problem. The committee will be prepared to hear anyone interested in this problem at its next meeting.

#### *Clayton Act*

At the conclusion of its labors a memorandum was submitted to the committee dealing with this subject, a copy of which is annexed hereto and marked Exhibit "G". The contents of this memorandum will be considered by the committee at its next meeting.

#### *The A. I. C. Bills*

A communication was received from the Risk Research Institute expressing certain views with respect to the legislative proposals previously adopted by the National Association of Insurance Commissioners. While the views contained in the letter and memorandum have not been formally approved by the membership of the Risk Research Institute, it was nevertheless read and considered by the Committee and filed in its records.

Respectfully submitted,

CHARLES F. J. HARRINGTON, Massachusetts, Chairman  
ROBERT E. DINEEN, New York  
NEWELL R. JOHNSON, Minnesota  
JAMES M. McCORMACK, Tennessee  
SETH B. THOMPSON, Oregon  
J. EDWIN LARSON, Florida  
MAYNARD GARRISON, California

## EXHIBIT "A"

REPORT OF THE SUB-COMMITTEE ON THE ROBINSON-PATMAN  
ACT TO THE ALL-INDUSTRY COMMITTEE

(Submitted at September 19-20, 1945 Meeting of All-Industry Committee)

## A. NATURE OF ROBINSON-PATMAN ACT

At the time the Sherman Act was adopted, in 1890, the country had witnessed phenomenal growth of producer (seller) enterprises and it was believed that the unrestricted development of such enterprises would result in such concentration of power in comparatively few corporations as to make impossible the continuance of competitive enterprises. The Sherman Act approached the problem by prohibiting combinations in restraint of trade, and further prohibited the setting up of a monopoly through the dealings of a single corporation or individual.

The Sherman Act was later found to be inadequate to deal with the problem for the reason that the purposes of the Act were frequently circumvented by indirect means which were held by the Courts not to be within the specific prohibitions of the Act. As a result, in 1914, the Clayton Act was adopted. This Act continued the Sherman Act approach by way of proscribing certain activities in the producer (seller) field, and attempted to prohibit the indirect methods of "committing" monopoly by making illegal certain price discrimination practices and the acquisition, under certain circumstances, of stock in competing companies, and by limiting the growth of interlocking directorates.

By 1936 it had become apparent that the attempts which Congress had made to deal with the problem of maintaining free trade and commerce were still inadequate, because, being designed to control the activities of sellers primarily, they did not prevent the development of monopolistic practices on the part of buyer organizations in the consumer goods field. These buyer organizations were typified by the chain stores.<sup>1</sup> It was felt that while the Clayton Act contained a prohibition against price discriminations, the prohibition was largely ineffective because it permitted quantity discounts which were not based on actual cost differentials and because it permitted indirect discriminations through brokerage and advertising allowances.

The Robinson-Patman Act attempted to deal with the evils still permitted under the Clayton Act by requiring quantity discounts to be based on actual costs and by prohibiting, subject to certain exceptions, brokerage, advertising and other allowances for services and facilities. An examination of the specific provisions of the Act is necessary to an understanding of its position in the body of anti-trust legislation and its effect on the insurance business.

Section 1 of the Act amends the Clayton Act by striking out Section 2 of the Clayton Act and by substituting for the stricken section six new paragraphs. The first of the new paragraphs (Section 2(a) of the Clayton Act) prohibits certain price discriminations and quantity discounts.<sup>2</sup> The exceptions to the prohibition of quantity discounts are of considerable importance. Quantity discounts or differentials are permitted provided they make due allowance for differences in cost of manufacture, sale or delivery resulting from differing methods or quantities in which the commodities are sold or delivered. Therefore, discounts which reflect actual and provable differences in cost of manufacture, sale, or delivery are permitted.<sup>3</sup>

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<sup>1</sup> See Patman, "The Robinson-Patman Act," Pages 3-5.

<sup>2</sup> Section 2(a) reads as follows:

"That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchasers involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with



Also, discounts which do not substantially lessen competition or tend to the creation of a monopoly are permitted even though they may not be based upon actual difference in cost. If, in the event a complaint is filed alleging violation of this Section and it is proved that a price discrimination exists, the burden is on the seller to justify the discriminatory discount or differential. Section 2(b) of the Clayton Act as amended makes this clear.<sup>4</sup>

Section 2(c) of the Clayton Act as amended by Robinson-Patman prohibits the allowance of brokerage, except for services rendered, to the other party to the transaction or to an agent of the other party.<sup>5</sup> It will be noted that this prohibition does not carry the usual qualification to the effect that it applies only where the acts prohibited may substantially lessen competition or tend to create a monopoly. The prohibition is absolute to the extent that it applies.<sup>6</sup>

customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned." USCA Sec. 13(a).

<sup>3</sup> Three types of discounts are defined as follows:

"Quantity discounts (non-cumulative discounts based upon the dollar amount bought at a single time, and usually delivered at a single place),

"Cumulative or volume discounts (cumulative discounts based upon the total dollar purchases over a period of time, often for delivery at a number of different places), and

"Functional or trade discounts (discounts which depend upon the distributional status or classification of the customer)."

—80 Congressional Record, Pages 7969, 7970; May 21, 1936.

<sup>4</sup> Section 2(b) reads as follows:

"Upon proof being made at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however, That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor." USCA Sec. 13(b)

<sup>5</sup> Section 2(c) reads as follows:

"That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid. USCA Sec. 13(c)

<sup>6</sup> Federal Trade Commission rulings are summarized as follows in Supplement 3 to Volume VII. N.A.M. Law Digest (May 1945):

1. Direct or indirect brokerage payments by a seller to a buyer are unlawful regardless of the effect on competition.
  2. A brokerage house, even though independently owned and managed, is the agent of the buyer in purchasing transactions.
  3. Price discrimination is a burden on commerce and brokerage to buyers often hides price discrimination. In regulating commerce by making certain brokerage payments illegal, the Congress did not violate the prescriptions of the Fifth Amendment.
  4. A broker, serving the buyer, often renders service to the seller but for this he cannot be paid by the seller, for such service is merely incidental to his service for the buyer.
  5. To come within the language "except for services rendered," a seller's payment to a buyer or his agent must be for services which the seller was bound to render in connection with the sale.
  6. The prohibition against brokerage or allowances in lieu thereof to buyers is absolute.
  7. The defense allowed for "meeting competition" (Section 2(b)) relates to price and service discrimination by a seller and does not relate to brokerage or pay for a buyer's services.
  8. The brokerage section (2(c)) applies only to transactions in interstate commerce, while price discriminations are covered if either of the purchases is in interstate commerce.
- (Biddle Purchasing Co. v. FTC (2nd Circuit), 96 F. (2d) 687; Oliver Bros. Inc. v. FTC (4th Circuit), 102 F. (2d) 763; The Great A & P Tea Co. v. FTC (3rd Circuit), 106 F. (2d) 667; Webb-Crawford Co. v. FTC (5th Circuit), 109 F. (2d) 268; Quality Bakers of America v. FTC (1st Circuit), 114 F. (2d) 393; Fitch & Kentucky v. Tennessee Light & Power Co., 136 F. (2d) 12.

Under the language of the Section, payment of brokerage to a representative of the buyer is condemned even though the allowance may never reach the buyer. It is for this reason that this Section has an important bearing upon insurance in view of long established practices. While brokers in the insurance business do represent the buyer, they receive commissions from the seller, which commissions are not passed on to the buyer but are retained by the broker as payment for service rendered. In the insurance business brokers are independent contractors and are not a part of the staff of a buyer's organization. This fact argues for a different application of Section 2(c) in the insurance business than to industry generally.

Section 2(d) prohibits payments to or for the benefit of a customer in consideration for services or facilities furnished by or through the customer in connection with the sale, etc., of products or commodities. The prohibition does not apply where the payments are available on proportionally equal terms to all customers.<sup>7</sup> This Section is designed to eliminate the practice of large buyers of demanding allowances which purport to compensate the buyer for advertising and other sales promotional services.

Section 2(e) prohibits discriminations between purchasers of commodities bought for resale. Since insurance is not bought for resale it appears to have no application to insurance.<sup>8</sup>

Section 2(f) provides that it is unlawful for any person engaged in commerce to receive a prohibited price discrimination.<sup>9</sup>

Section 2 of the Robinson-Patman Act applied only to litigation pending at the time of enactment.

Section 3 of the Robinson-Patman Act is not amendatory of the Clayton Act. It is frequently referred to as the criminal section. This section has not been invoked by the Department of Justice. Inasmuch as it relates to price discriminations, its applicability to the business of insurance will presumably be governed by principles similar to those hereinafter referred to in connection with Section 2(a) of the Clayton Act as amended by Robinson-Patman. However, Section 3 differs considerably from Section 2(a).<sup>10</sup> Section 3 does not contain the limiting language of Section 2(a) which requires that the discrimination must be such that it may "substantially . . . lessen competition or tend to create a monopoly."

<sup>7</sup> Section 2(d) reads as follows:

"That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities." USCA Sec. 13(d).

<sup>8</sup> Section 2(e) reads as follows:

"That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchaser of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms." USCA Sec. 13(e).

<sup>9</sup> Section 2(f) reads as follows:

"That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section." USCA Sec. 13(f).

<sup>10</sup> Section 3 reads as follows:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect to a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor." USCA Sec. 13(a).

It makes the discrimination itself unlawful provided that the goods are "of like grade, quality, and quantity." The omission of the qualifying language contained in Section 2(a) may raise interesting questions as to the enforceability of Section 3 under the Due Process amendment. On the other hand, the language of Section 3 may require such an interpretation of "like quantity" as to render the Act innocuous.

Section 4 of the Act expressly eliminates from the prohibitions of the Act the return of a portion of the net earnings or surplus to members by cooperative associations.<sup>11</sup> It is believed that this Section requires no special examination.

## B. *APPLICABILITY OF ROBINSON-PATMAN ACT TO INSURANCE*

Irrespective of the treatment of the Robinson-Patman Act in Public Law 15, hereinafter discussed, it is necessary to determine whether and to what extent Robinson-Patman applies to the insurance business.

The Act was aimed at specific practices in the consumer goods field. These practices had to do with the sale in commerce of "commodities" (Section 2(a)), "goods, wares or commodities" (Section 2 (c)), "products or commodities" (Section 2(d)), and "goods" (Section 3). With reference to the varying language in the different sections, it will be noted that each of the sections contains either the word "commodity" or the word "goods."

It is necessary, therefore, to determine whether the words "commodity" and "goods" include insurance. The word "commodity," is now generally understood in its commercial sense in which it denotes that which affords advantage or profit, that which affords convenience or advantage, especially in commerce, including everything movable which is bought or sold, an article of trade or commerce, something that is produced or used and is the subject of barter and sale, something movable and tangible, almost any description of article called movable or personal estate goods, ware, and merchandise of any kind, property. In referring to commerce, it may comprehend everything movable, that is bought or sold, except animals.<sup>12</sup>

The cases construing "commodity" as related to insurance are not in agreement. In *Palatine Insurance Company v. Griffen*, (Tex. Civ. App. 1918) 202 S. W. 1014, insurance was held not to be a commodity under a statute prohibiting any agreement to refuse to buy from or sell to any person an article of merchandise, produce, or commodity. A similar decision was made in *Duggan Abstracting Company vs. Moore*, (Tex. Civ. App. 1940) 139 S. W. (2d) 198, where the business of compiling abstracts of title was held not to be an article of merchandise, produce or commodity.

The case most frequently referred to as holding "commodity" not to include insurance is *Queen Insurance Co. v. State Attorney General*, (Tex. 1893) 24 S. W. 397, 22 L.R.A. 483. The Court held that the statute which prohibited making or performing "any agreement not to sell or dispose of any article or commodity of trade, use, merchandise, commerce or consumption below a common standard so as to prevent free competition" did not apply to a combination of Fire Insurance companies to use uniform rates of insurance and agents' commissions throughout the state. The Court stated that the word "commodity" is "ordinarily used in the commercial sense as any movable or tangible thing that is ordinarily produced or used as the subject of barter or sale."

Insurance was held to be a "commodity" in *Beechley vs. Mulville* (1897) 102 Ia. 602, 70 N. W. 107. In this case, a group of insurance agents were charged

<sup>11</sup> Section 4 reads as follows:

"Nothing in this Act shall prevent a cooperative association from returning to its members, producers, or consumers the whole or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association." USCA Sec. 13(b).

<sup>12</sup> See 12 Corpus Juris, Page 153.



with violating a statute which prohibited "combinations to fix the price of oil, lumber, coal, grain, flour, provisions or any other commodity or article whatever." The Court referred to Anderson's Law Dictionary, which defined the word "commodity" as "convenience, privilege, profit or gain."

In *State ex rel. Taylor vs. Ross* (1906) 4 Ohio N. P. N. S. 337, an indictment under the antitrust law against insurance companies for unlawfully combining to fix prices, etc., was sustained on the ground that insurance was a commodity, and insurance companies were engaged in barter and trade within the meaning of this law. The Court refused to follow the earlier Ohio case of *Runck v. Cloud* (1901) 8 Ohio N. P. 448. Two subsequent nisi prius cases have refused to follow *Taylor vs. Ross*. See *State vs. Beovee* (1917) 6 Ohio N. P. N. S. 337, and *Foster vs. Anken Bauer* (1913) 14 Ohio N. P. N. S. 637.

The fact that the United States Supreme Court has now taken the position that insurance is commerce may have a tendency to encourage state courts as well as Federal courts to construe the word "commodity" more broadly.<sup>13</sup>

The applicability of Section 2(c) to the insurance business involves a construction of the words "goods, wares or merchandise." Many of the cases construing these words arose in connection with the Statutes of Frauds of the various states, and are not particularly helpful as to insurance. The word "goods" has been held to be limited to property which has an intrinsic value. On the other hand, it has been held to include movables not having any intrinsic value in themselves such as choses in action as well as those in possession, evidence of debt, bank bills and notes, bonds, mortgages, etc.<sup>14</sup>

While it is possible to argue rather effectively that Section 2(c) relating to brokerage does not apply to the insurance business for the reason that the word "commodity" is not used and that the words "goods, wares or merchandise" do not apply to insurance, there nevertheless remains a possibility that they might be considered to include insurance. There is little uniformity in the decisions interpreting these words. They are variously interpreted according to the context and subject matter. Those decisions holding the word "goods" to be limited in meaning to property which has an intrinsic value may be used in support of the argument that the brokerage section does not apply to insurance. On the other hand, the decisions holding that the word "goods" includes things which have no intrinsic value in themselves such as choses in action, etc., may be construed to afford the ground work for decisions specifically holding the brokerage section applicable to insurance.

### C. *THE ROBINSON-PATMAN ACT AND PUBLIC LAW 15* (Insurance Antitrust Moratorium Act of the 79th Congress, first session, approved March 9, 1945.)

It may be argued that Congress intended, by adopting Public Law 15, that the Robinson-Patman Act is to apply to the business of insurance after Jan. 1, 1948. Section 3(a) of Public Law 15 provides in part: "Until January 1, 1948 . . . the Act of June 19, 1936, known as the Robinson-Patman Anti-Discrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof." This language implies that after January 1, 1948, the Robinson-Patman Act will apply to the business of insurance to the extent that other sections of the Act fail to limit such application. It is necessary, therefore, to examine other sections of Public Law 15 to determine how and to what extent the Robinson-Patman Act will apply to insurance after January 1, 1948.

<sup>13</sup> See 21 A.L.R. at Page 551.

<sup>14</sup> See *Keyser v. Sunapee School District* #8, 35 N. H. 477, 483.

See also *U. S. vs. Moulton* 27 F. Cas. No. 15, 827, 5 Mason 537, 544; *Gibbs vs. Usher*, 10 F. Cas. No. 5387, Holmes 348, 351; *Epping v. Robinson*, 21 Fla. 36, 52.

Section 2(b) reads in part as follows: "No Act of Congress shall be construed to invalidate, impair or supersede any law enacted by any state for the purpose of regulating the business of insurance or shall impose a fee or tax upon such business, unless such Act specifically relates to the business of insurance; provided, that after January 1, 1948 . . . the Act of October 15, 1914 as amended, known as the Clayton Act . . . shall be applicable to the business of insurance to the extent that such business is not regulated by state law."

Nowhere in this section is there a specific reference to the Robinson-Patman Act. However, the proviso specifically refers to the Clayton Act "as amended". The amendments to the Clayton Act necessarily include those amendments contained in the Robinson-Patman Act. It seems, therefore, that Section 1 of the Robinson-Patman Act, which amends Section 2 of the Clayton Act, and which includes the price discrimination and brokerage sub-sections and the sub-sections referring to other allowances, is included within the specific language of the proviso. Accordingly, after January 1, 1948, Section 1 of the Robinson-Patman Act will apply to the business of insurance only "to the extent that such business is not regulated by state law."

This fails to dispose of Sections 2, 3 and 4 of Robinson-Patman. Section 2 is completely inapplicable to insurance and Section 4 is believed to be unimportant from the standpoint of our present discussion. Section 3, however, must be considered. It may be argued that by reason of the failure of Congress to include a specific reference to Robinson-Patman in the proviso of Section 2(b) of Public Law 15, it was intended that the sections of Robinson-Patman which are not amendatory of the Clayton Act should not apply in any manner to the business of insurance after January 1, 1948. It may, on the other hand, be argued that since Section 3(a) of Public Law 15 implies that after January 1, 1948 the Robinson-Patman Act shall apply to the business of insurance, and since the application of Robinson-Patman to insurance after January 1, 1948 is not limited by specific reference in Section 2(b), Section 3 of Robinson-Patman will apply to insurance after January 1, 1948 irrespective of any regulatory laws enacted by the states. It is believed that neither of these alternative interpretations is sound. Effect must be given to that portion of Section 2(b) of Public Law 15 which precedes the proviso.

Since the Robinson-Patman Act does not specifically relate to the business of insurance, it cannot be construed to invalidate or to impair or to supersede any law enacted by a state for the purpose of regulating the business of insurance. In other words, assuming a state law exists which regulates the business of insurance, Section 3 of Robinson-Patman would not affect the operation of the state law because it could not be construed to invalidate, impair or supersede the state law. However, the state law must be such that it affects activities comprehended within Section 3 of Robinson-Patman, otherwise there would be no occasion to consider whether Section 3 invalidates, impairs or supersedes it.

Our conclusion is that since Section 1 of Robinson-Patman amends the Clayton Law, it is included within the proviso of Section 2(b) of Public Law 15. Being within the proviso, the price discrimination, brokerage and other allowances sub-sections apply to insurance "to the extent" that there is no state law regulating the specific activities prohibited by these sections. With reference to Section 3 of Robinson-Patman, while it is not included within the proviso, it is included within the language of Section 2(b) preceding the proviso from the standpoint that it may not invalidate any state law which regulates activities included under Section 3.

#### D. *THE IMPACT OF THE ROBINSON-PATMAN ACT ON INSURANCE*

Since Public Law 15 may make the Robinson-Patman Act generally applicable to insurance transactions, after January 1, 1948 the question arises whether there

are practices in the insurance business which might be considered vulnerable under some one of the Sections of that Act. Considering first the price discrimination sections (Section 2(a) of Clayton as amended by Robinson-Patman and Section 3 of Robinson-Patman), it should be noted that the Act applies to individual sellers and does not require any combination as between companies. In this respect it must be distinguished from the Sherman Act.<sup>15</sup>

The activities of individual companies may violate any one of the Sections of the Robinson-Patman Act. Various practices in the insurance field should be considered in this connection. Among these practices are:

- (1) charging varying rates by size of risk
- (2) retrospective rating available to risks of certain size
- (3) graduated expense by size of risk
- (4) fleet rates available to risks covering a specified number of cars
- (5) expense constants applied to risks of certain size
- (6) loss constants applied to risks of certain size
- (7) experience rating and other adjustments by size of risk
- (8) policy forms (comprehensive) restricted to risks of certain size
- (9) minimum premium by size of risk
- (10) "equity" (competitive) rating

These practices might be questioned under Paragraph 2(a) or under Section 3 of Robinson-Patman. Additional activities might be questioned under Section 3. For example: (1) territorial classifications, (2) general reductions in rates by territory, (3) differences in rates between states when considered in the light of the fact that the Robinson-Patman Act applies on a national level.

As to the test of legality, there are differences between Section 2(a) of Clayton as amended by Robinson-Patman, and Section 3 of Robinson-Patman. Under Section 2(a) the basic question which must first be passed upon is whether in fact a discrimination exists. On this point retrospective rating may be cited as an illustration. Assuming that retrospective rating is available to risks where the premium is \$1,000 or more, it may be argued that such a plan does discriminate against a risk with a premium of \$990 in favor of a risk with a premium of \$1,010. If discrimination is present, the burden of defending the discriminatory practice is on the accused and the defense may be either that the effect of the retrospective rating plan cannot be to substantially lessen competition or to tend to the creation of monopoly, or that due allowance for cost of manufacture, sale or delivery resulting from differing methods or quantities has been made in the plan. A further defense [contained in section 2(b)] is that the price was set in good faith to meet that of a competitor.

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<sup>15</sup> Section 1 of the Sherman Anti-Trust Act (Act of July 2, 1890, Chapter 647, 26 Stat. 209, as amended; 15 U. S. Code, Section 1 et seq.) reads in part as follows:

"Every contract, *combination* in the form of trust or otherwise, or *conspiracy*, in restraint of trade or commerce among the several states or with foreign nations, is hereby declared to be illegal . . ." (Emphasis ours). The reference to combinations and conspiracies necessarily includes more than one person or more than one corporation.

Section 2 of the Sherman Act reads in part as follows:

"Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize . . ." This section applies to the activities of an individual person or corporation and to the activities of persons or corporations acting in combination.

Section 2(a) of the Clayton Act as amended by Robinson-Patman reads in part as follows: "That it shall be unlawful for any person engaged in commerce . . ." The reference is to "person" and not to a combination of persons or a conspiracy participated in by more than one person.

Section 2(c) of the Clayton Act as amended by Robinson-Patman reads in part as follows: "That it shall be unlawful for any person engaged in commerce . . ." It will be noted that this language does not refer to combinations of persons or to conspiracies.

Sections 2(d) and 2(e) of Clayton as amended by Robinson-Patman also refer to "any person" and thus do not include combinations of persons or conspiracies between persons.

Section 3 of Robinson-Patman also refers to "persons engaged in commerce" and does not include combinations or conspiracies.



With reference to Section 3 of Robinson-Patman, it has been pointed out that the burden on the government or other complainant is greatly increased. "Intent" must be shown. It also must be shown affirmatively that the goods were of like grade, quality and quantity. Thus, while Section 3 may seem somewhat broader than Section 2(a) in its prohibitions, it would seem that the obligation on the complainant under Section 3 is considerably greater and the obligation on the respondent correspondingly less.

Another section which must be considered is Section 2(c) of Clayton as amended by Robinson-Patman, which deals with brokerage. For convenience, this section will be referred to as 2(c).

It is difficult to arrive at any definite conclusion as to whether or not an insurance broker would come under Section 2(c) of the Act or whether he would be exempted as a legitimate intermediary. It is true that in the insurance business brokers are considered to represent the buyer. In some instances, the state statutes specifically contemplate that the broker shall represent the buyer. For example, Section 6015, Missouri Insurance Laws, reads in part as follows: "Whoever for compensation, acts or aids in any manner in negotiating contracts of insurance or reinsurance, or placing risks or effecting insurance or reinsurance for any person other than himself, and not being the appointed agent or officer of the company in which insurance or reinsurance is effected, shall be deemed an insurance broker . . ." Similarly, Section 141 of the Insurance Laws of Nevada reads in part as follows: "The term 'non-resident broker' as used in this article means any person, partnership, association or corporation, not a resident of or a domiciled company in this state, who or which for money, commission, brokerage, or anything of value acts or aids in any manner any solicitation or negotiation, *on behalf of the assured*, or contracts of any of the kind or kinds enumerated in Section 5" (Emphasis ours). Under such state laws it cannot well be claimed that the broker does not represent the buyer. Section 2(c) of Clayton as amended by Robinson-Patman carries a specific exception which reads as follows: "Except for services rendered in connection with the sale or purchase of goods, wares or merchandise . . ." Notwithstanding the exception, we believe that since brokers generally claim to be the representative of the buyer and to serve on his behalf, and the laws generally give the broker that legal status, it must be concluded that if the Robinson-Patman Act applies to insurance it does preclude the payment of a commission to a broker by an insurance company, except as relief may be sought pursuant to Public Law 15.<sup>16</sup>

Section 2(d) may be construed to affect practices in the insurance business which have to do with price allowances made to specific risks for services performed by the insured which would otherwise be performed by the insurer. It is believed that these practices are not numerous or of serious consequence to the business. It may be considered practicable and proper to eliminate them. On the other hand, it may be well to proceed on the basis of adopting state legislation of such character that no section of the Robinson-Patman Act will apply to the business of insurance. The comments just made apply to Section 2(e) although it may be questioned whether there are transactions in the insurance business which come within the language referring to "commodities bought for resale".

In order to determine the extent of state regulation necessary to exempt companies from the operation of the Robinson-Patman Act, it is necessary to consider the various Sections of Robinson-Patman separately. We cannot assume that regulation which exempts the companies from the operation of one section of Robinson-Patman will be effective to exempt the companies from the operation of other sections dealing with different subject matter. Accordingly, the important sections of Robinson-Patman will be separately treated:

Section 2(a) of Clayton as amended by Robinson-Patman relates to prices or

<sup>16</sup> See cases cited under footnote 6.

rates. Discounts from established prices are prohibited under certain circumstances. The most logical and perhaps the only way by which states may accomplish the ouster of this section of the Robinson-Patman Act and at the same time permit the insurance business to operate effectively and in the public interest is through the passage of rate regulatory laws. It is believed that there should be included in such laws anti-rebate and anti-discrimination sections.

Section 2(c) of Clayton Act as amended by Robinson-Patman is the brokerage section. It is believed that state regulation sufficient to protect the companies and brokers against prosecution under this section should provide for the licensing of brokers and for the revocation of license, should specifically authorize the payment of commissions to licensed brokers and should specify the conditions under which brokerage may be paid to out-of-state brokers. It may be questioned whether state regulation which goes only to the extent indicated is adequate for the reason that even though the state law specifically authorizes payment of brokerage, it does not protect the public against the harmful effects of improper rebates by brokers. It would seem however, that the adoption of anti-rebate provisions applicable to companies, agents and brokers would certainly accomplish the desired result.

Section 2(d) of Clayton Act as amended by Robinson-Patman Act is the section designed to eliminate allowances which purport to compensate the buyer or advertising and other sales promotional services. A broad anti-rebate provision will render this section inoperative.

The comment made with reference to Section 2(d) of the Clayton Act as amended by Robinson-Patman is believed also to apply to Section 2(e) which prohibits discrimination in favor of one purchaser against another purchaser in connection with services or facilities having to do with the sale of a commodity bought for resale. The section probably has no direct bearing on insurance practices.

Section 3 of Robinson-Patman prohibits certain price discriminations and is commonly referred to as the criminal section. There is considerable question as to the meaning and enforceability of its provisions. A rating law such as that herein recommended together with an anti-rebate section would constitute a valid ouster.

The remaining sections of the Robinson-Patman Act are unimportant from an insurance standpoint.

## RECOMMENDATIONS

1. *The enactment in each State of rating laws that meet the requirements of Public Law 15.*

2. *The enactment in each State — either as an integral part of the rating law or independently — of statutes (a) prohibiting unfair rate discriminations and (b) prohibiting rebates.*

Typical statutory provisions prohibiting rate discrimination and rebating are found in the New York Insurance Law, Sections 183(c), 188 and 209.

3. *In the absence of a statutory regulation of rates, the insurer affected, for protection against the impact of the Robinson-Patman Act, must rely exclusively upon State laws prohibiting discrimination and rebates. In such case our recommendation is the enactment, if it is possible, of necessary exceptions to the discrimination and rebating statutes to enable the insurer to operate effectively.*

For example, without the aid of rating laws and in the face of severe discrimination and rebating statutes, life insurers have relied upon express statutory pro-

visions to enable the issuing of group policies at rates less than the usual rates and to enable the granting of other differentials:

*Maine Insurance Laws, Section 140*

"Nothing in the three preceding sections shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policy-holders or otherwise abating their premiums in whole or in part, out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance on the weekly payment plan from returning to policy-holders who have made premium payments for a period of at least one year directly to the company at its home or branch offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums; nor to prohibit any life insurance company doing business in this state from issuing policies of life or endowment insurance with or without annuities at rates less than the usual rates of premiums for such policies, insuring members of organizations or employees of any employer who through their secretary or employer may take out insurance in an aggregate of not less than fifty members and pay their premiums through such secretary or employer; nor to prohibit an agent from receiving commissions from his company for insurance on himself.

*New York Insurance Law, Section 204 (2)*

"No domestic, foreign or alien life insurance company shall be permitted to do business in this state if it hereafter issues, within or without this state, any policy of group life insurance on which the premium shall be less than the net premium based on the American Men Ultimate Table of Mortality, with interest at three and one-half per centum per annum, plus a loading computed in accordance with a formula which shall be determined by the superintendent. Anything in this chapter to the contrary notwithstanding, any group life insurance policy issued or delivered in this state may provide for readjustment of the rate of premium based on the experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, and such readjustment may be made retroactive only for such policy year."

4. *The enactment in each State of statutes recognizing insurance brokers and delineating the rights and duties thereof, specifically authorizing the payment of commissions to licensed brokers and specifying the conditions under which brokerage may be paid to out-of-State brokers.*

Because, as pointed out in the foregoing analysis, the applicability of the Robinson-Patman Act to insurance is uncertain and because the intent of Congress, as expressed in Public Law 15, is by no means clear, our recommendation is that the applicability of the Robinson-Patman Act be included in any discussion that may be held with the Insurance Subcommittees appointed by the Senate Judiciary Committee and by the House Judiciary Committee.

Respectfully submitted,

JOHN M. McFALL, Chairman  
JOSEPH B. BEACH  
HARRY E. MOORE  
W. RAY THOMAS  
FELIX HEBERT  
ROBERT L. HOGG  
JOHN R. COONEY

September 19, 1945



## EXHIBIT "B"

SUPPLEMENTARY REPORT OF THE SUBCOMMITTEE ON THE  
ROBINSON-PATMAN ACT

(Submitted at October 18-19, 1945 meeting of All-Industry Committee and  
amended at November 26-27, 1945 and at March 11-15, 1946 meetings

of All-Industry Committee)

## LEGISLATIVE PROPOSALS

1. *RATING LAWS*

The subject of rating laws that meet the requirements of Public Law 15 is not discussed herein, because it is a matter for consideration in connection with the Sherman Act.

2. *PROVISIONS TO ACCOMPANY STATE RATING LAW*(a) *Anti-discrimination*

Rating laws usually contain appropriate anti-discrimination provisions as essential parts of rate making. The following, adapted from existing statutes, are recommended as a basis for anti-discrimination provisions to accompany State rating laws:

(1) *Casualty and Surety Rating Law:*

"Rates shall be reasonable, adequate and not unfairly discriminatory."

(2) *Fire Rating Law:*

"No insurer, nor any rating bureau, shall fix or change any rate which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazard, territorial classification, and having substantially the same degree of protection."

(b) *Anti-Rebate*

The following, adapted from existing statutes, are recommended as a basis for anti-rebate provisions to accompany state rating laws:

"No insurer or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating systems ————(\*). No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this State, nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits."

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(\*) Insert appropriate words to describe authorized rating system under the terms of the Rating Law.

### 3. *STATUTES IN THE ABSENCE OF RATING LAWS*

#### (a) *Anti-discrimination*

The following are recommended as a basis for appropriate independent anti-discrimination statutes:

##### (1) *Fire*

"No insurer doing in this State the business specified in Section . . . . shall promulgate or use any schedule of rates, any form or any underwriting rule or classification system which discriminates unfairly between risks of essentially the same hazard, territorial classification, and having substantially the same degree of protection."

##### (2) *Casualty and Surety*

"No insurer doing in this State the business specified in Sections . . . . shall promulgate or use any schedule of rates, any underwriting rule or classification system which discriminates unfairly between risks or classes of risks."

(A specific Statute for Workmen's Compensation is not included for the reason that Workmen's Compensation insurance is so completely regulated as to rates that it seems unnecessary to suggest a provision to be used independently of a rating law).

##### (3) *Life*

"No insurer doing in this State the business specified in Section . . . . shall promulgate or use any rate or system of rating which discriminates unfairly between insureds of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends, or other advantages."

##### (4) *Accident and Health*

"No insurer doing in this State the business specified in Section . . . . shall make or permit any unfair discrimination between individuals of the same class in the amount of premiums, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder."

#### (b) *Anti-rebate*

The following is recommended as a basis for an appropriate independent anti-rebate statute:

"No insurer or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this State; nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits."

#### (c) *Necessary Exceptions*

In the absence of a statutory rating law, the anti-discrimination and anti-rebate statutes must contain specific exceptions to enable the insurer affected

to operate efficiently. Uniform exceptions cannot be set forth in the statutes because different classes of insurance require different exceptions. In the case of life insurance, the following statute prohibits discrimination and rebates and contains typical exceptions for Life Insurance Companies:

"No Life Insurance company doing business in this State shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor, except as otherwise expressly provided by law, shall any such company or any agent thereof make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon; nor shall any company or agent pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give, or sell, or purchase or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy."

"No person shall receive or accept from any company or agent, sub-agent, broker, or any other person any such rebate or premium payable on the policy, or any special favor or advantage in the dividend or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance."

"Nothing in this section shall be so construed as to prohibit any company issuing non-participating life insurance, from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, nor to prohibit any company transacting industrial insurance from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the collection of such premiums; nor shall anything in this section be construed as prohibiting the delivery of any group life insurance policy in this State which provides for the readjustment of the rate of premium based on the claim and expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, provided such readjustment is made retroactive only for such policy year."

#### 4. *BROKERS ACT*

The following, adapted from existing statutes, is recommended as a basis for appropriate Brokers Act:

Sec. 1. This Act shall apply to all brokers as defined herein.

Sec. 2. The term "broker" as used in this Act, means any person, partnership, association or corporation, who or which, for money, commission, brokerage, or anything of value, acts or aids in any manner in the solicitation or negotiation, on behalf of the assured, of contracts for insurance of any of the following kinds as specified in Sec. . . . , namely: Life, Accident, Health, Casualty, Fidelity, Surety, Fire and Marine.

Sec. 3. No person, partnership, association or corporation shall act as a broker without first procuring a license so to act from the (Commissioner).



Sec. 4. Application for a broker's license shall be filed with the (Commissioner) in writing and in the form prescribed by him.

Sec. 5. The (Commissioner) shall issue a broker's license to an applicant when (a) an application provided for in Sec. 4 has been filed with and approved by the (Commissioner) and the (Commissioner) shall have determined the applicant to be competent and trustworthy, (b) the applicant has paid an annual fee as follows: If the applicant is a resident of this State, ..... dollars; if the applicant is a non-resident of this State, ..... dollars.

Sec. 6. Whenever the (Commissioner) upon notice and hearing is satisfied that any applicant for license or any broker acting under his supervision and holding a license from him is violating or has violated any provision of the insurance laws of this State, or that he is incompetent or untrustworthy, he shall proceed to issue an order denying or revoking the license of such broker.

Sec. 7. An insurance company or agent thereof may pay money, commission or brokerage, or give or allow anything of value, for or on account of the solicitation or negotiation of contracts for insurance of the kind or kinds enumerated in Sec. 2 of this Act, to a duly licensed broker.

(Detailed provisions for notice, hearings and review of orders and finding should be integrated with the general State statutes.)

# EXHIBIT "C"

## SUPPLEMENTAL REPORT

(Submitted by John M. McFall, Chairman, in behalf of Robinson-Patman Act Subcommittee, at September 4-6, 1946 meeting of All-Industry Committee)

As requested, I have reviewed with the members of the Subcommittee on the Robinson-Patman Act the Legislative Proposals heretofore submitted to the All-Industry Committee.

There is still some question as to the applicability of the Robinson-Patman Act to insurance because of the content of the Robinson-Patman Act and because of the uncertain terms of Public Law 15. But our opinion is that insurance cannot afford to proceed on the assumption that the Robinson-Patman Act is inapplicable and run the risk of the federal penalties, namely, action by the Federal Trade Commission, suits for treble damages, and in some cases criminal prosecution.

Our problem is to determine the State legislative program that will protect the insurance industry from the impact of the Robinson-Patman Act.

### 1. *Payment of commission to brokers*

We recommend that a Brokers Act in substantially the form submitted in our Legislative Proposals be passed in each State whose laws recognize insurance brokers but which do not specifically authorize the insurer to pay commissions to such brokers. For example, in Arizona, brokers are defined by statute and are licensed but the law does not authorize the insurer to pay commissions to brokers.

From our preliminary examination we believe that legislation (in many cases simply an additional provision authorizing payment of commissions) is required in the following States:<sup>1</sup>

Arizona	Massachusetts	Pennsylvania	Washington
Idaho	Missouri	Rhode Island	West Virginia
Indiana	Nebraska	Tennessee	Wyoming
Louisiana	New Hampshire	Utah	Alaska
Maine	Oregon	Vermont	Puerto Rico

### 2. *Provisions to accompany State Rating Law*

#### (a) Anti-discrimination

The provisions of the Casualty and Fire Rate Regulatory Bills ("Rates shall not be excessive, inadequate or unfairly discriminatory") are recommended.

#### (b) Anti-rebate

The anti-rebate section attached to the Rate Regulatory Bills is recommended.

### 3. *Absence of Rating Law*

#### (a) Anti-discrimination

Independent anti-discrimination statutes as suggested in Legislative Proposals are recommended for each kind of insurance unregulated as to rates.

#### (b) Anti-rebate

The anti-rebate section attached to the Fire and Casualty Rate Bills is recommended as a basis for appropriate independent anti-rebate statute.

#### (c) Necessary exceptions

The independent anti-discrimination and anti-rebate statutes must contain exceptions as suggested in Legislative Proposals.

<sup>1</sup> In Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Michigan, Minnesota, Montana, N. Dakota, Oklahoma, S. Dakota, Texas and Wisconsin brokers are not recognized. In Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maryland, Mississippi, New Mexico, New York, Nevada, New Jersey, N. Carolina, Ohio, S. Carolina and Virginia, brokers are recognized but statutes already enacted are believed to be sufficiently definite to authorize the payment of commissions to the kinds of brokers recognized.

## EXHIBIT "D"

## AN ACT RELATING TO UNFAIR PRACTICES IN THE BUSINESS OF INSURANCE

*Section 1 — Purpose.*

The purpose of this Act is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in Pubic Law 15—79th Congress, by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

*Section 2 — Unfair Methods and Unfair or Deceptive Acts and Practices Prohibited.*

No person<sup>1</sup> engaged in the business of insurance shall engage in this state in unfair methods of competition or in unfair or deceptive acts and practices in the conduct of such business.

*Section 3 — Methods, Acts and Practices Which Are Defined Herein as Unfair or Deceptive.*

The following are declared to be unfair methods of competition and unfair or deceptive acts and practices in the business of insurance:

(a) *Misrepresentations and False Advertising of Policy Contracts.* No person engaged in the business of insurance in this state shall make, issue, or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular, or statement of any sort misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall any such person make any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit, or surrender his insurance.

(b) *False Information and Advertising Generally.* No person engaged in the business of insurance in this state shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement of any sort containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(c) *Defamation.* No person engaged in the business of insurance in this state shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical and which is calculated to injure any other such person.

(d) *Boycott, Coercion and Intimidation.* No person engaged in the business of insurance in this state shall enter into any agreement to commit, or by any concerted action, commit, any act of boycott, coercion or intimidation

<sup>1</sup> "Person" — Whenever used in this Act shall include individuals, corporations, associations, partnerships, reciprocal exchanges, inter-insurers, Lloyds insurers, fraternal benefit societies, and any other legal entity engaged in the business of insurance.



resulting or tending to result in unreasonable restraint of, or a monopoly in, trade or commerce.

(e) *False Financial Statements.* No person engaged in the business of insurance in this state shall file with any supervisory or other public official, or shall make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any financial statement of an insurer which does not accurately state its true financial condition.

(f) *Stock Operations and Advisory Board Contracts.* No insurance company doing business in this state shall issue, nor permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board or other contracts of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company acting as agent of an insurance company nor any of its agents, officers, or employees shall be permitted to sell, agree or offer to sell, or give or offer to give, directly or indirectly, in any manner whatsoever, any share of stock securities, bonds, or agreement of any form or nature promising returns and profits as an inducement to insurance or in connection therewith.

(g) *Discrimination.* No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between those of the same class and equal expectation of life in the rates charged for contracts of insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes, nor shall it discriminate unfairly between other risks involving essentially the same hazards and expense elements or between risks in the application of like rates and credits.

(h) *Rebates.* (1) Except as otherwise expressly provided by law, no life insurance company or its agent shall make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon; nor shall any such company or agent pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give, or sell, or purchase or offer to give, sell, or purchase as inducement to insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

(2) Nothing in this or the preceding subsection shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the collection of such premiums; nor to prohibit the readjustment of the rate of premium for a group life insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, such readjustment to be made retroactive only for such policy year.

(i) Any violation of any one of Sections . . . . . is also here-

by declared to be an unfair method of competition and an unfair or deceptive act and practice in the business of insurance.<sup>2</sup>

(j) The enumeration in this Act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the (commissioner) or any court of review under the provisions of Section 4 of this Act.

(Note: Each state may add such additional definitive acts as may be considered necessary or desirable.

#### *Section 4 — Other Unfair Competition, Acts and Practices.*

(a) If the (commissioner) shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in an act or practice in the conduct of such business, other than those enumerated in subdivisions (a) to (i) inclusive of Section 3, and that such method is an unfair method of competition, or that such act or practice is unfair or deceptive, or if he shall have reason to believe that any such person is engaging in this state in any method of competition or in any act or practice enumerated in Section 3, and that a proceeding by him in respect thereof would be to the interest of the public, he may issue and serve upon such person a statement of the charges and a notice of a hearing thereon to be held at a time and place fixed in the notice which shall not be less than . . . . days from the date of service thereof. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the (commissioner) requiring such person to cease and desist from the violation of the law charged in the complaint.

If after such hearing the (commissioner) shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, he shall reduce his findings to writing and shall issue and cause to be served on the person charged with the violation of law an order requiring such person to cease and desist from such method, act or practice. Until the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time, or, if a (notice of appeal) (petition for such writ) has been filed within such time, then until the transcript of the record in the proceeding has been filed in the . . . . . court, as hereinafter provided, the (commissioner) may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by him under this section. After the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time, the (commissioner) may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

(b) Any order of the (commissioner) directing any person to cease and desist from using any method of competition or act or practice shall be subject to review  
(here insert language describing scope of review)

by (appeal) (writ of certiorari) to (the . . . . . court) of . . . . . county<sup>3</sup>. The court shall determine whether the filing of the (appeal) (petition

<sup>2</sup> Insert section numbers of any other sections of the Insurance Law which it is deemed desirable or necessary to include as an unfair trade practice.

<sup>3</sup> The county in which the seat of government is located. If time within which appeal must be taken should be limited, insert such provision.

for such writ) shall operate as a stay of such order of the (commissioner). The court may, in disposing of the issue before it, modify, affirm, or reverse the order of the (commissioner) in whole or in part. To the extent that the order of the (commissioner) is affirmed or modified, the court shall issue its own order commanding obedience to the terms of the order of the (commissioner).

(c) No order of the (commissioner) or judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under any other laws of this state.

(d) An order of the (commissioner) to cease and desist shall become final —

- (1) upon the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time; or
- (2) upon a final decision of the court if a judicial review has been sought of the order of the (commissioner).

(e) If the report of the (commissioner) does not charge a violation of this Act, then any party to the proceeding, including any intervener, may within . . . . days after the service of such report cause a like petition to be filed in the . . . . . court of . . . . . county for a view of the report of the (commissioner).<sup>4</sup>

#### *Section 5 — Power of (Commissioner).*

The (commissioner) shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair act or practice.

#### *Section 6 — Hearing, Witnesses, Production of Books.*

At the time and place fixed for the hearing before the (commissioner), such person shall have an opportunity to be heard. The (commissioner) upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The (commissioner) upon such hearing may, and upon the request of any party shall, cause to be made a written record of all the evidence offered or introduced and proceedings had at such hearing.

Nothing in this Act contained shall require the observance at any hearing of formal rules of pleading or evidence.

#### *Section 7 — Appearance.*

Upon good cause shown, the (commissioner) may permit any person to intervene, appear and be heard at such hearing.

#### *Section 8 — Procedure Additional.*

The powers vested in the (commissioner) by this Act, shall be in addition to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

#### *Section 9 — Penalty.*

Any person who violates an order of the (commissioner) to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the state of . . . . . a civil penalty of not more than \$5,000 for each violation, which may be recovered in a civil action.

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<sup>4</sup> Set forth judicial review statutes and procedures in each state.



*Section 10 — Punishment for Failure to Obey Subpoena.*

In case of refusal of any person to comply with any subpoena issued hereunder or to testify to any matter to which he may be lawfully interrogated, the ..... court of any county on application of the (commissioner) may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

*Section 11 — Constitutionality.*

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

## EXHIBIT "E"

## AN ACT RELATING TO UNFAIR PRACTICES IN THE BUSINESS OF INSURANCE

*Section 1 — Purpose.*

The purpose of this Act is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in Public Law 15—79th Congress, by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

*Section 2 — Unfair Methods and Unfair or Deceptive Acts and Practices Prohibited.*

No person<sup>1</sup> engaged in the business of insurance shall engage in this state in unfair methods of competition or in unfair or deceptive acts and practices in the conduct of such business.

*Section 3 — Methods, Acts and Practices Which Are Defined Herein as Unfair or Deceptive.*

The following are declared to be unfair methods of competition and unfair or deceptive acts and practices in the business of insurance:

(a) *Misrepresentations and False Advertising of Policy Contracts.* No person engaged in the business of insurance in this state shall make, issue, or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular, or statement of any sort misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Nor shall any such person make any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit, or surrender his insurance.

(b) *False Information and Advertising Generally.* No person engaged in the business of insurance in this state shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement of any sort containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(c) *Defamation.* No person engaged in the business of insurance in this state shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical and which is calculated to injure any other such person.

(d) *Boycott, Coercion and Intimidation.* No person engaged in the business of insurance in this state shall enter into any agreement to commit, or

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<sup>1</sup> "Person"—Whenever used in this Act shall include individuals, corporations, associations, partnerships, reciprocal exchanges, inter-insurers, Lloyds insurers, fraternal benefit societies, and any other legal entity engaged in the business of insurance.

by any concerted action, commit, any act of boycott, coercion or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, trade or commerce.

(e) *False Financial Statements.* No person engaged in the business of insurance in this state shall file with any supervisory or other public official, or shall make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any financial statement of an insurer which does not accurately state its true financial condition.

(f) *Stock Operations and Advisory Board Contracts.* No insurance company doing business in this state shall issue, nor permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificate or shares in any common-law corporation, or securities or any special or advisory board or other contracts of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company acting as agent of an insurance company nor any of its agents, officers, or employees shall be permitted to sell, agree or offer to sell, or give or offer to give, directly or indirectly,, in any manner whatsoever, any share of stock securities, bonds, or agreement of any form or nature promising returns and profits as an inducement to insurance or in connection therewith.

(g) *Discrimination.* No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between those of the same class and equal expectation of life in the rates charged for contracts of insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes, nor shall it discriminate unfairly between other risks involving essentially the same hazards and expense elements or between risks in the application of like rates and credits.

(h) *Rebates.* (1) Except as otherwise expressly provided by law, no life insurance company or its agent shall make any contract of insurance or agreement as to such contract, other than as plainly expressed in the policy issued thereon; nor shall any such company or agent pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give, or sell, or purchase or offer to give, sell, or purchase as inducement to insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association; or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

(2) Nothing in this or the preceding subsection shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance from returning to policyholders who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the collection of such premiums; nor to prohibit the readjustment of the rate of premium for a group life insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, such readjustment to be made retroactive only for such policy year.

(i) Any violation of any one of Sections . . . . . is also here-



by declared to be an unfair method of competition and an unfair or deceptive act and practice in the business of insurance.<sup>2</sup>

(Note: Each state may add such additional definitive acts as may be considered necessary or desirable.)

(j) The enumeration in this Act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the (commissioner) or any court of review under the provision of Section 4 of this Act.

#### *Section 4 — Other Unfair Competition, Acts and Practices.*

(a) If the (commissioner) shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in an act or practice in the conduct of such business, other than those enumerated in subdivisions (a) to (i) inclusive of Section 3, and that such method is an unfair method of competition, or that such act or practice is unfair or deceptive, or if he shall have reason to believe that any such person is engaging in this state in any method of competition or in any act or practice enumerated in Section 3, and that a proceeding by him in respect thereof would be to the interest of the public he may issue and serve upon such person a statement of the charges and a notice of a hearing thereon to be held at a time and place fixed in the notice which shall not be less than . . . . days from the date of service thereof. The (commissioner) shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and serve a copy thereof upon such person.

(b) If such report charges a violation of this Act and if such method of competition, act or practice has not been discontinued, the (commissioner) may, through the Attorney General of this State, at any time after . . . . days after the service of such report cause a petition to be filed in the . . . . . court of this state within the district wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(c) A transcript of the proceedings before the (commissioner) including all evidence taken and the report and findings shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the (commissioner) the court may order such additional evidence to be taken before the (commissioner) and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The (commissioner) may modify his findings of the facts or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If the court finds that the method of competition, act or practice complained of is enumerated in subdivisions (a) to (i) inclusive of Section 3, or, if not so enumerated, that in the judgment of the court, the method of competition complained of is unfair, or the act or practice complained of is unfair or deceptive, and in either case the continuance of such method of competition, act or practice whether or not enumerated in Section 3 would result in substantial injury to the public and that the findings of the (commissioner) are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

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<sup>2</sup> Insert section numbers of any other sections of the Insurance Law which it is deemed desirable or necessary to include as an unfair trade practice.

(e) If the report of the (commissioner) does not charge a violation of this Act, then any party to the proceeding, including any intervenor, may within . . . . days after the service of such report cause a like petition to be filed in the . . . . court of . . . . county for a review of the report of the (commissioner).<sup>3</sup>

*Section 5 — Power of (Commissioner).*

The (commissioner) shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair act or practice.

*Section 6 — Hearing, Witnesses, Production of Books.*

At the time and place fixed for the hearing before the (commissioner), such person shall have an opportunity to be heard. The (commissioner) upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The (commissioner), upon such hearing may, and upon the request of any party shall, cause to be made a written record of all the evidence offered or introduced and proceedings had at such hearing.

Nothing in this Act contained shall require the observance at any hearing of formal rules of pleading or evidence.

*Section 7 — Appearances.*

Upon good cause shown, the (commissioner) may permit any person to intervene, appear and be heard at such hearing.

*Section 8 — Procedure Additional.*

The powers vested in the (commissioner) by this Act, shall be in addition to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

*Section 9 — Punishment for Failure to Obey Subpoena*

In case of refusal of any person to comply with any subpoena issued hereunder or to testify to any matter to which he may be lawfully interrogated, the . . . . court of any county on application of the (commissioner) may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

*Section 10 — Constitutionality.*

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

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<sup>3</sup> Set forth judicial review statutes and procedures in each state.

## EXHIBIT "F"

AN ACT RELATIVE TO THE FILING AND APPROVAL OF FORMS  
OF POLICIES OF ACCIDENT AND HEALTH INSURANCE,  
ENDORSEMENTS, RIDERS AND APPLICATIONS WHICH  
ARE ATTACHED THERETO AND RATE MANUALS  
(AND REPEALING SECTIONS .....)

Be It Enacted (By .....)

*Section 1 — Filing of Forms and Rate Manuals.*

(a) No policy of insurance against loss or expense resulting from the bodily injury or death of the insured by accident or from the sickness of the insured shall be delivered or issued for delivery in this state, nor shall any form of endorsement, rider or application which becomes a part of any such policy be used, until a copy of such forms and the rate manual showing rules, classification of risks and premium rates, if any, pertaining thereto have been filed with the Commissioner of Insurance; and every such filing shall state the proposed effective date thereof. The (commissioner) may require that no policy shall be delivered or issued for delivery in this state and no applications, riders, endorsements or rates shall be used in connection therewith unless approved by him as conforming to the requirements of this Act and of other provisions of the Insurance Law of this state.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the (commissioner) to accept such filings on its behalf; provided, that nothing contained in this Act shall be construed as requiring any insurer to become a member or subscriber to any rating organization.

(c) No such policy shall contain provisions which are unjust, unfair, inequitable, contrary to law or to the public policy of this state or calculated to mislead the insured or encourage misrepresentation of such policy and no such premium shall be excessive, inadequate or unfairly discriminatory and no classification shall produce a premium rate which is excessive, inadequate or unfairly discriminatory.

*Section 2 — Withdrawal of Filings.*

(a) If at any time, the (commissioner) finds that a filing of forms or rate manual does not meet the requirements of this Act, or of other provisions of the Insurance Law of this state, he shall after a hearing held upon not less than ... days' written notice, specifying the matters to be considered at such hearing, to every insurer or rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this Act or other provisions of the Insurance Law of this state, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer or rating organization. Said order shall not affect any policy made or issued prior to the expiration of the period set forth in said order.

(b) An insurer or rating organization may at any time amend or withdraw any filing made by it by giving written notice to the (commissioner), and may make new filings of forms, rules, premium rates and classifications with respect to the same or different policies. Every such amended filing or new filing shall be subject to all the provisions of this Act.

*Section 3 — Information To Be Furnished Commissioner.*

Every insurer or rating organization so filing any form, rule, premium rate or



classification shall furnish to the (commissioner) on his request, information as to the loss experience, expense factors and other matters to enable him to determine whether the requirements of this Act have been met.

#### *Section 4 — Rating Organizations.*

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the (commissioner) for license as a rating organization for insurance against loss or expense resulting from the bodily injury or death of the insured by accident or from the sickness of the insured and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state upon whom notices or orders of the (commissioner) or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the (commissioner) finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license to act as a rating organization. Every such application shall be granted or denied in whole or in part by the (commissioner) within sixty days of the date of its filing with him. Licenses issued pursuant to this Section shall remain in effect for three years unless sooner suspended or revoked by the (commissioner). The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this Section may be suspended or revoked by the (commissioner), after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the (commissioner) promptly of every change in (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the (commissioner) or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the (commissioner) as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the (commissioner) at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the (commissioner) finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insured's application for subscribership within thirty days after it was made, the insurer may request a review by the (commissioner) as if the application had been rejected. If the (commissioner) finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this Act is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this Act which are applicable to filings generally. The (commissioner) may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this Act, and requiring the discontinuance of such activity or practice.

#### *Section 5 — Appeal By Minority.*

Any member of or subscriber to a rating organization may appeal to the (commissioner) from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the (commissioner) shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

#### *Section 6 — Information To Be Furnished Insurers: Hearings And Appeals of Insurers.*

Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the (commissioner), who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

#### *Section 7 — Examination.*

The (commissioner) shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state as provided in Section 4. The reasonable costs of any such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the (commissioner) may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

*Section 8 — Rate Administration.*

The (commissioner) may make reasonable rules and regulations necessary to effect the purposes of this Act.

*Section 9 — False or Misleading Information.*

No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the (commissioner), any rating organization, or any insurer, which will affect the rates or premiums chargeable under this Act. A violation of this Section shall subject the one guilty of such violation to the penalties provided in Section 10 of this Act.

*Section 10 — Penalties.*

The (commissioner) may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than fifty dollars (\$50) for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars (\$500) for each such violation. Such penalties may be in addition to any other penalty provided by law.\*

The (commissioner) may suspend the license of any rating organization or insurer which fails to comply with an order of the (commissioner) within the time limited by such order, or any extension thereof which the (commissioner) may grant. The (commissioner) shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The (commissioner) may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the (commissioner), stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

*Section 11 — Hearing Procedure and Judicial Review.*

(a) Nothing contained in this Act shall require the observance at any hearing of formal rules of pleading or evidence.

(b) Any order or decision of the (commissioner) shall be subject to review  
(here insert language indicating scope of the review)

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by (appeal)\*\* (writ of certiorari)\*\* to (the ..... court)\*\* at the instance of any party in interest.

The court shall determine whether the filing of the (appeal)\*\* (Petition for such writ)\*\* shall operate as a stay of any such order or decision of the (commissioner). The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the (commissioner) in whole or in part.

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\* In some states the imposition of fines by administrative officers is prohibited by basic law. It may be necessary to modify this section to provide for the imposition of fines and penalties by some other appropriate state authority.

\*\* Consideration should be given to the practice and procedure in each state.



*Section 12 — Non-Application to Certain Policies.*

Nothing in this Act shall apply to or affect (1) any policy of Workmen's Compensation Insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and health insurance as (a) provide additional benefits in case of death by accident, and as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

*Section 13 — Laws Repealed.*

Sections . . . . . of the statutes of this state are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

*Section 14 — Constitutionality.*

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

*Section 15 — Effective Date.*

This Act shall take effect\*\*\* . . . . .

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\*\*\* The effective date of this Act should be set sufficiently ahead to allow the insurance department, the companies and the rating organizations to prepare themselves with necessary personnel and procedures to carry out the purposes of the Act. It is recommended that such effective date should be not later than October 1, 1947, which is 90 days prior to January 1, 1948, when the moratorium under Public Law 15 ends.

## EXHIBIT "G"

## M E M O R A N D U M

## QUESTION

DOES SECTION 3 OF THE CLAYTON ACT (TYING CONTRACTS SECTION) PROHIBIT AN AGREEMENT WHEREBY AN INSURANCE COMPANY AGREES TO ACCEPT UNPROFITABLE BUSINESS FROM AN AGENT ONLY IF IT RECEIVES A CERTAIN AMOUNT OF PROFITABLE BUSINESS?

## OPINION

The right of one in business to exercise reasonable discretion in respect to his own business methods has been jealously guarded by the courts.

Smiley v. Kansas; 196 U. S. 447

Locker vs. American Tobacco Co. 195 N. Y. 565

This right includes the power to discontinue dealing with another for any reason satisfactory to the one exercising the right, or for no reason at all.

Raymond Brothers Clark Co. vs. Federal Trade Commission; 263 U. S. 565, affirming 280 Fed. 529 (8 C.C.A.) which has vacated an order of the Federal Trade Commission.

A fortiori, continued dealing with another, may be conditioned on certain requirements being met. In fact the Clayton Act itself in one section expressly preserves the right to select one's own customers. (Title 15 U.S.C.A. — Commerce and Trade Sec. 13 (a) p. 187). Therefore in the absence of a clear withdrawal of this right by some specific provision of the Clayton Act we must conclude the right remains unimpaired.

Section 3 of the Clayton Act (so-called Tying Contracts Section) reads as follows:

"Sec. 14. Sale, etc. on agreement not to use goods of competitor. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods; wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any territory thereof, or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

At the outset we are confronted with the question of whether the language above quoted is applicable to the insurance business, or to the relationship of insurance company principal with its agents.

The section deals with leases and contracts of sale for goods, wares, merchandise, machinery, supplies or other commodities. In an insurance transaction there is no question of leasing, and there is a split of authority on whether or not insurance is a commodity. There would appear to be no sale of goods, wares, merchandise, machinery or supplies; but even if the language could be stretched

to apply to insurance, it does not appear to be susceptible of application to the relation of insurance company principal with its agent.

"The words 'lease,' 'sale,' 'contract of sale,' 'lessee' and 'purchaser,' being the words used, and no other relation than lease and sale being mentioned, there is no expressed purpose in the clause quoted to make it cover any other subject than leases, sales, or contracts for sales, and to embrace no other persons than lessees and purchasers. The words are so clear they require no construction, and to needlessly construe, in order to broaden the scope of the section, whether done by the Trade Commission in administering, or by the court in supervising the administration of, the statute, would be for either or both such agencies to write into it what Congress has not expressly written.

(Curtis Publishing Co. vs. Federal Trade Commission C.C.A. Pa. 1921, 270 Fed. 881, affirmed 260 U. S. 568.)"

The tying contract section was intended to prevent one seller or lessor from closing the market to other sellers or lessors. It was intended to prevent tying the purchaser or lessee to one seller or lessor.

International Business Machines vs. U. S.; 298 U. S. 131

It is obvious that the agreement in question does not tie the agent to the insurer in any sense. It tends to the other result since it encourages the agent to find other underwriting facilities.

However, even assuming that the language in question would apply to insurance and to the relationship of insurance company principal and its agent, it is still difficult to see how this section prohibits the contract in question. Making the assumptions in the preceding sentence, the section would prohibit an insurance company principal furnishing its underwriting facilities to an agent on condition that the agent was not to use the underwriting facilities of an insurer who is a competitor of the insurance company principal, when the effect of such agreement may be to substantially lessen competition, or tend to create a monopoly in any line of commerce. This obviously is not the contract stated in the question.

In view of the foregoing it is our opinion that Section 3 of the Clayton Act does not apply to the contract set forth in the question.

Respectfully submitted,



## APPENDIX "F"

REPORT OF ALL-INDUSTRY COMMITTEE WITH RESPECT TO  
CASUALTY AND SURETY AND FIRE, MARINE AND INLAND  
MARINE RATE REGULATORY BILLS, AT CONVENTION  
OF NATIONAL ASSOCIATION OF INSURANCE  
COMMISSIONERS, PORTLAND, OREGON,  
JUNE 11, 1946

TO THE COMMITTEE ON RATES AND RATING ORGANIZATIONS OF THE  
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

*Mr. Chairman and Members of the Committee:*

The All-Industry Committee met in open session duly called, at the Junior Ball Room, Hotel Multnomah, Portland, Oregon, Monday, June 10, 1946, at 9:45 A. M.

All of the constituent organizations of the All-Industry Committee were present, except one, which was represented by proxy.

A report of the All-Industry Committee Conference Committee with respect to Casualty and Surety, and Fire and Marine and Inland Marine Rate Regulatory Bills was submitted, pertaining to bills heretofore considered by the Committee on Rates and Rating Organizations, N. A. I. C., or sub-committee thereof, since the Grand Rapids meeting of the N. A. I. C., in December, 1945, which bills have been the subject of frequent conference since that time of representatives of the All-Industry Committee, and the aforementioned sub-committee of the Committee on Rates and Rating Organizations.

The All-Industry Committee was advised by the Acting Chairman of the Conference Committee, Mr. Marryott, that the sub-committee of the Committee on Rates and Rating Organizations, (N. A. I. C.) would at this Convention report to that Committee with respect to the aforementioned bills, and that the requests and recommendations of the sub-committee with respect thereto were "contingent upon approval and acceptance of both bills in their present form by the All-Industry Committee before action is taken by the full Committee on Rates and Rating Organizations and the National Association of Insurance Commissioners at Portland".

Upon submission of the Report of the Conference Committee, and consideration and discussion thereof, the following motion was made by Mr. Walter Bennett, representative of the National Association of Insurance Agents:

"I move that the All-Industry Committee approve and accept the Casualty and Surety Rate Regulatory Bill and the Fire, Marine and Inland Marine Rate Regulatory Bill, each dated May 18, 1946, including the footnotes contained therein; I further move that the Committee recognize that the science of rate-making is a progressive one and that as time passes, changes and improvements will no doubt suggest themselves as being of sufficient importance to require additional consideration of this Committee."

The motion was seconded by Mr. David Satterfield, representative of the Life Insurance Association of America.

Upon roll call vote on the motion constituent organizations voted as follows:

American Institute of Marine Underwriters  
by Mr. J. Raymond Berry

Aye

American Life Convention	
by Mr. Hogg	Aye
American Mutual Alliance	
by Mr. Eaton	Aye
American Reciprocal Association	
by Mr. Jacobs	Aye
Associated Factory Mutual Fire Insurance Cos.	
by Mr. Lord	Aye
Association of Casualty and Surety Executives	
by Mr. Murphy	Aye
Bureau of Personal Accident and Health Underwriters	
by Mr. Follmann	Aye
Health and Accident Underwriters Conference	
by Mr. Fraizer	Aye
Inland Marine Underwriters Association	
by Mr. Wayne	Aye
Insurance Executives Association	
by Mr. Williams	Aye
Life Insurance Association of America	
by Mr. Satterfield	Aye
National Association of Independent Insurers	
by Mr. Moser	Aye
National Association of Insurance Agents	
by Mr. Bennett	Aye
National Association of Mutual Insurance Agents	
by Mr. Eaton (proxy)	Aye
National Association of Insurance Brokers	
by Mr. Sawyer	Aye
The National Board of Fire Underwriters	
by Mr. Berry	Aye
National Fraternal Congress of America	
by Mr. Ekern	Aye
Surety Association of America	
by Mr. McFall	Aye
National Assn. of Casualty and Surety Agents	
by Mr. Sawyer	Aye

The motion was therefore declared unanimously carried.

It will have been noted, Mr. Chairman, and gentlemen of the committee, that the aforementioned motion is in such form as to comply with exactitude to the requirements of the sub-committee of your committee, in that, as adopted, it carries with it the "approval and acceptance" of the bills by each and all of the constituent organizations of the All-Industry Committee.

Mr. Chairman, it would hardly be fitting if opportunity were not taken at this time to express the appreciation of the All-Industry Committee collectively and individually, for the unfailing aid and cooperation that your committee has given to the All-Industry Committee during the thirteen months of its labors — by no means completed. We look forward to continued cooperation, and indeed, rely upon it, in a good faith effort to meet the problems that confront the industry. We feel that you may agree with us that the efforts thus far made, and to be made, mark a new era in cooperative endeavor within the industry. Assuredly this cooperative endeavor on a national scale and of such a scope, is unique in insurance history. That it will continue not merely as a convenience but as a necessity and by common accord, seems assured.

Again thanking you, Mr. Chairman, and members of the Committee, this report, on behalf of the All-Industry Committee, is respectfully submitted.

RAY MURPHY, Chairman, All-Industry Committee  
Portland, Oregon, June 10-11, 1946  
HENRY G. WOOD, Secretary.



## APPENDIX "G"

FIRST REPORT OF SUBCOMMITTEE OF LAWYERS TO THE  
COMMITTEE ON LAWS OF THE NATIONAL BOARD OF  
FIRE UNDERWRITERS PURSUANT TO RESOLUTION  
ADOPTED AT MAY 9, 1945, MEETING

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On June 5, 1944, the Supreme Court of the United States held the business of insurance to be commerce, and where it crosses State lines, interstate commerce. This decision

(a) raised broad doubts as to the validity of many aspects of State regulation and taxation of the insurance business, and

(b) presented to the insurance business the far-reaching problem of adjustment to Federal laws passed pursuant to the Commerce Clause of the Constitution of the United States (Article I, Section 8, Clause 3).

On March 9, 1945, the President signed the following Act of Congress (Public Law No. 15, 79th Congress):

## AN ACT

To express the intent of the Congress with reference to the regulation of the business of insurance.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Sec. 3. (a) Until January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, and the Act of June 19, 1936, known as the Robinson-Patman Anti-discrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation.

Sec. 4. Nothing contained in this Act shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935,

as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Sec. 5. As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and the District of Columbia.

Sec. 6. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

This Act discloses:

(1) A congressional declaration that the continued regulation and taxation by the several States of the business of insurance is in the public interest.

(2) That the National Labor Relations Act, the Fair Labor Standards Act and, insofar as acts or agreements of boycott, coercion or intimidation are involved, the Sherman Act, are presently applicable to the business of insurance.

(3) That until January 1, 1948, the Federal Trade Commission Act, the Robinson-Patman Act, the Clayton Act and, except for acts or agreements of boycott, coercion or intimidation, the Sherman Act, shall not apply to the business of insurance.

(4) That after January 1, 1948, the Sherman Act, the Clayton Act and the Federal Trade Commission Act, all as amended, shall apply to the business of insurance "to the extent that such business is not regulated by State Law," but State regulation will not render the Sherman Act inapplicable to boycott, coercion or intimidation.

No express mention is made as to the applicability of the Robinson-Patman Act after January 1, 1948, to the business of insurance.

The questions considered are:

(1) The effect of the immediate applicability of the Sherman Act to the business of insurance, insofar as acts or agreements of boycott, coercion or intimidation are concerned.

(2) The impact of the Sherman Act, the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act on the business of insurance after January 1, 1948, apart from State regulation, and the possibilities through State legislation of removing or lessening that impact.

## I.

### THE IMMEDIATE APPLICABILITY OF THE SHERMAN ACT

The Sherman Act provides for fine or imprisonment, or both, of every person (1) who shall make any contract or engage in any combination or conspiracy in restraint of trade or commerce among the several States or with foreign nations, or (2) who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize such trade or commerce. In addition to the criminal penalties, the United States by suit in equity may prevent or restrain violations of the Sherman Act. Such violations may also be enjoined and triple damages may be recovered in suits by persons injured as a result of such violations.

Public Law 15, Section 3(b) provides:

"(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation."

This provision does not enlarge or expand the Sherman Act. Public Law 15 does not itself prohibit boycott, coercion or intimidation, it preserves the applicability of the Sherman Act to boycott, coercion and intimidation used as a means of achieving a restraint of trade or a monopoly.

Coercion as used in Public Law 15 does not apply to a command or restraint imposed by a State as an act of government.<sup>1</sup> Therefore a State law which required insurers, for example, to act in concert, would not constitute the coercion which if practiced by private persons would under Sec. 3(b) of Public Law 15 make the Sherman Act applicable. This does not mean that a State may authorize coercion by private persons, for a State may not grant immunity to those who so violate the Sherman Act by declaring that their action is lawful.

### *Meaning of the words "boycott, coercion or intimidation"*

Decisions of the courts as to the meaning and application of the words "boycott, coercion or intimidation" are far from uniform. While in many situations counsel will be able to advise definitely as to whether boycott, coercion or intimidation is present, in many others there will be considerable doubt.

In general, boycott is a concerted refusal to deal with others. It may be a primary boycott, where members of the combination to promote their own interests agree to refrain from dealing with others; or a secondary boycott, where they agree to exert pressure on third persons, who may have no interest in the original dispute, to do likewise.

The words coercion and intimidation are generally used together, although they may have slightly different meanings. Where one is present, usually both exist. Therefore, for the purpose of this report, they will be considered together.

While coercion is defined by the dictionaries as involving the application of force either physical or moral,<sup>2</sup> the courts have broadened this to include "coercion by economic pressure"<sup>3</sup> as, for example, implanting a belief in the party coerced that if he did not follow the course of action proposed to him he "would suffer some serious and appreciable financial loss."<sup>4</sup>

"Intimidate" is defined as "to render timid, inspire with fear; to overawe, cow; now, esp. to force to or deter from some action by threats or violence."<sup>5</sup> But here again in the sense used in Public Law 15 it includes fear of unfavorable economic results.<sup>6</sup>

### *Interpretation of the Sherman Act*

Boycott, coercion and intimidation do not in and of themselves necessarily constitute violations of the Sherman Act. The violation, if any, exists when boycott, coercion or intimidation constitutes or contributes to a monopoly or combination in restraint of trade. In determining whether a violation exists in any such case, however, there must be applied the standards established by the courts in interpreting the Sherman Act.

The Supreme Court has held that under the so-called "rule of reason" not all restraints of trade are violations of the Sherman Act. With certain exceptions, restraints are not held to constitute violations of the Act, if they are found to be

<sup>1</sup> *Parker v. Brown*, 317 U. S. 341 (1943).

<sup>2</sup> Webster's International Dictionary.

<sup>3</sup> *United States v. Butler*, 297 U. S. 1, 71 (1936).

<sup>4</sup> *United States v. American Naval Stores, Inc.*, 172 Fed. 455 (Circuit Ct., S. D. Georgia, 1909).

<sup>5</sup> Shorter Oxford English Dictionary.

<sup>6</sup> "The clear weight of authority undoubtedly is that man may be intimidated into doing, or refraining from doing, by fear of loss of business, property, or reputation, as well as by dread of loss of life, or injury to health or limb; and the extent of this fear need not be abject, but only such as to overcome his judgment, or induce him not to do or to do that which otherwise he would have done or have left undone." — *Barr v. Essex Trades Council*, 30 Atl. 881, 889 (Ct. Ch. N. J., 1894).



reasonable restraints. The standards of reasonableness which have been applied by the Supreme Court are not, however, met by merely showing that the restraint will prevent practices injurious to the business. Generally speaking, it must be established that the restraint will not be prejudicial to the public interest.

The Court has said in many cases (though in none involving insurance) that it will not inquire into the reasonableness of price-fixing as such — "Price-fixing, reasonable or unreasonable, is 'unlawful *per se*.'" <sup>1</sup>

In the words of the *Madison Oil Case*<sup>2</sup>

"Any combination which tampers with price structures is engaged in an unlawful activity."  
and again,

"Under the Sherman Act a combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity in interstate or foreign commerce is illegal *per se*."

Because of the differences between the price-fixing dealt with in the adjudicated cases, and rate-making to determine a proper insurance premium, it is possible that the Supreme Court might distinguish such rate-making from price-fixing. It is interesting that the Court in the *South-Eastern Underwriters case*<sup>3</sup> did not characterize the joint rate-making charged in the Atlanta indictment as price-fixing illegal *per se*.

To repeat, even though boycott, coercion or intimidation is present, there is not a violation of the Sherman Act (at least in the absence of price-fixing) if the restraint of trade involved is reasonable. No absolute tests can be laid down to determine the reasonableness of a restraint of trade. Each situation must be examined on all its facts and with its collateral activities.

However, if there be a violation of the Sherman Act because of the presence of illegal boycott, coercion or intimidation, the question is suggested as to whether the Government might attack not only the particular activity involved in the boycott, coercion or intimidation but also other related activities which, standing alone, would be entirely legal. Under Public Law 15 there is a moratorium until January 1, 1948, except for acts or agreements of boycott, coercion or intimidation and this may be a sufficient answer during the moratorium period to the suggestion in the preceding sentence. Nevertheless, the Supreme Court has held that the existence of a restraint violating the Act justifies an injunction not only against the restraint itself but also against continuance of activities which in themselves are entirely legal but which are engaged in as an integral part of the forbidden restraint.<sup>4</sup>

### *Examination of Specific Activities*

The rules and activities discussed below are of the type which the Government has charged (in the *S. E. U. A.* indictment) or might charge involve boycott, coercion or intimidation. No general conclusion can be drawn as to whether a particular rule or activity will be found to be in violation of the Sherman Act without relating the rule or activity to the surrounding circumstances, particularly to determine whether any restraint which may be involved is merely ancillary to the main purpose of a lawful group activity.<sup>5</sup>

1. The separation rule and the rule prohibiting reinsurance of non-organization companies were terminated generally before enactment of Public Law 15. The Government has charged that these two rules involved boycott and that their

<sup>1</sup> *United States v. Bausch & Lomb Optical Co.*, 321 U. S. 707, 720 (1944).

<sup>2</sup> *United States v. Socony-Vacuum Oil Co.*, 310 U. S. 150, 221, 223 (1940).

<sup>3</sup> *United States v. South-Eastern Underwriters Association*, 322 U. S. 533 (1944).

<sup>4</sup> *United States v. Bausch & Lomb Optical Co.*, 321 U. S. 707 (1944).

<sup>5</sup> *Cf. U. S. v. Addyston Pipe & Steel Company* (1898), 85 Fed. 271, 282.

application in practice often involved coercion and intimidation. The repeal of these rules alone is insufficient. To avoid attack it is important that any organization practices directed to enforcement of such rules, which may have survived the repeal of the rules, be terminated.

2. Many local boards have rules and practices which may be claimed to involve boycott, coercion or intimidation.

These rules and practices are primarily the concern of the local boards, but in some instances the companies may have become involved either by membership in the local board or by participation in or support of its activities. Whatever may be the status under the Sherman Act of such organizations standing alone, participation by companies writing interstate business might be held to remove the local character of the organization. The fact that the companies have no control over the actions of these boards and had no voice in the adoption of their rules may not in every case free the companies from responsibility.

Among such rules which might be attacked are the following :

(a) an "in and out" rule, under which members of the local board may not represent any insurance company unless all that company's local agents are members of the local board. In other words all agents of a company must be in the local board or all must be out. If a company appoints a non-member agent, or refuses to cancel its appointment of an agent who has withdrawn from or been dropped by the local board, all member agents are compelled to give up their representation of that company.

(b) A non-intercourse rule,, which prohibits member agents exchanging brokerage business with non-member agents.

(c) A rule forbidding any member agent writing insurance at other than the rate established by an official rating bureau. This has been interpreted to forbid writing insurance at lower rates even though such lower rates are deviations filed with the rating bureau and permitted by State law.

(d) A rule forbidding any member agent to represent any insurance company which returns to the insured any part of its premium or profit.

(e) A rule limiting the number of agents in the territory or otherwise restricting the right of a company to appoint agents.

(f) Rules setting up qualifications for membership. The validity of such rules depends on the particular qualifications required, the nature of the limitations and restrictions and on the purpose and structure of the board. A purely social organization may establish entirely arbitrary membership qualifications while an organization not purely social may not have the same freedom.

Even where a local board does not have a written rule as outlined above, the practices of the board may give the same result. These practices should be considered to be the same as though set forth in the constitution or by-laws of the board.

3. Fieldmen's associations may in the past have participated in the enforcement of the separation rule and local board rules. Fieldmen are company employees and the companies might in some circumstances be held responsible for their actions even though unauthorized. By cooperation with local boards they might involve their companies in responsibility for the effects of the board rules.

4. Some company associations and committees have rules limiting the number of agents which any one company may appoint in a particular territory or otherwise restricting the appointment of agents. These rules restrict the freedom of the member companies to deal with agents and could be charged to involve boycott, coercion or intimidation. Even so some such rules might be defensible under the rule of reason as not unreasonable restraints under the Sherman Act.

Such rules also establish different classes of agents, such as general agents,

policy writing agents and non-policy writing agents, and these classes become an integral part of the commission rules.

The rules of such associations and committees take many forms and apply to a variety of situations. Whether or not a particular rule can be justified can be determined only by consideration of the rules and practices of the association.

Company associations have varying membership qualifications and restrictions. Some associations restrict membership to stock companies; others admit only companies that carry on their business according to the standards set by the association. These restrictions in some associations could be construed to constitute boycott where certain companies or classes of companies are entirely excluded from the benefits of membership, or as coercion or intimidation where a company feels it necessary to comply with the restrictions in order to obtain membership. No general rule can be laid down as to permissible membership restrictions. The ability of the members to exclude others depends on the purpose and operations of the association and the effect on others of exclusion from benefits of membership.

5. Regional associations' constitutions, by-laws, rules and practices may present other questions of boycott, coercion and intimidation which can be answered only after a detailed study of each.

One such question is presented by the agency balance rule. Under that rule, all member companies must report agency delinquencies to the association, and if by a specified date the delinquency is not cleared the association notifies all companies in interest and appoints a supervisory committee to supervise the operation of the agency. While an agency is under the jurisdiction of such a committee, no member of the association may enter the agency, and if the delinquent agent fails to cooperate with the committee, the companies then represented in the agency may not continue to accept business from it.

Another question is presented by agreements made by members to live up to the rules of an association, with fines and other penalties including expulsion, for violation. Where membership is open to all and is voluntary, no question of boycott would seem to exist, but some situations may give rise to a charge that insurers are being coerced or intimidated to join or remain in the association. Again no general rule can be laid down — the results may depend on the purpose of the organization and the business value of membership.

Further facts and study may disclose additional problems involving boycott coercion or intimidation.

June 20, 1945.

## SECOND REPORT OF SUBCOMMITTEE OF LAWYERS TO THE COMMITTEE ON LAWS OF THE NATIONAL BOARD OF FIRE UNDERWRITERS PURSUANT TO RESOLUTION ADOPTED AT MAY 9, 1945 MEETING

In our first report we considered the effect of the immediate applicability of the Sherman Act to the business of insurance, in so far as acts or agreements of boycott, coercion or intimidation are concerned.

This report discusses the impact of the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act on the business of insurance after January 1, 1948, apart from State regulation, and the possibilities through State legislation of removing or lessening the impact of the Federal Trade Commission Act and the Robinson-Patman Act.

The impact of the Sherman Act after January 1, 1948 will be dealt with in a subsequent report.



Unlike the Sherman Act, a violation of which in most instances involves a combination or conspiracy, the prohibitions of the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act are directed primarily at individual action.

## I.

### CLAYTON ACT

The Clayton Act<sup>1</sup> is included in the moratorium provisions of Public Law 15, so that it is inapplicable to insurance until 1948. Section 2(b) of Public Law 15 provides that after January 1, 1948, the Clayton Act shall be applicable to the business of insurance "to the extent that such business is not regulated by State law."

This report deals with those sections of the Act which are of present interest to the insurance business.

Under the Clayton Act, a private person may bring a suit for an injunction or for triple damages. The Federal Trade Commission may issue cease and desist orders and the Department of Justice may bring civil proceedings for injunctions.

Section 2 of the Clayton Act was amended by Section 1 of the Robinson-Patman Act and is dealt with later in this report in the discussion of the Robinson-Patman Act.

Section 3 of the Act makes it unlawful to lease or sell goods, wares, merchandise or other commodities, or fix a price therefor or discount therefrom, on the condition that the lessee or purchaser shall not use or deal in the goods, wares, merchandise or other commodities of a competitor of the lessor or seller, where the effect may be to substantially lessen competition or tend to create a monopoly.

For reasons given in the discussion of the Robinson-Patman Act, we do not think that insurance is within the meaning of the words "goods, wares, merchandise or commodities."

Section 7 of the Act prohibits the acquisition by one corporation of stock of one or more other corporations where the effect may be to substantially lessen competition between any of the corporations whose stock is acquired and the corporation making the acquisition or between the corporations whose stock is acquired, or to restrain commerce in any section or community or tend to create a monopoly.

This section does not apply to corporations purchasing stock solely for investment and not voting or otherwise using it to bring about a substantial lessening of competition, nor does it prevent corporations from forming subsidiary corporations for the actual carrying on of their immediate lawful business when the effect is not to substantially lessen competition.

In the interpretation of this section, the courts apply a "rule of reason" similar to that which has been applied in connection with the Sherman Act. In a case decided in 1930<sup>2</sup> the United States Supreme Court said:

"Mere acquisition by one corporation of the stock of a competitor, even though it result in some lessening of competition, is not forbidden; the act deals only with such acquisitions as probably will result in lessening competition to a substantial degree, *Standard Fashion Co. v. Magran-Houston Co.*, 258 U. S. 346, 357; that is to say, to such a degree as will injuriously affect the public."

In subsequent decisions under Section 7 the courts have frequently cited this

<sup>1</sup> Act of October 15, 1914, 15 U. S. C. A., §§ 12, 13, 14-21, 22-27.

<sup>2</sup> *International Shoe Company v. Federal Trade Commission*, 280 U. S. 291, 298 (1930).

language and have given weight to the effect of the acquisition of stock on the public interest, and there has been some tendency to direct the inquiry to the question of whether the acquisition results in a reduction of competition generally, rather than to that of lessened competition between the acquired and acquiring corporations.<sup>1</sup> However, it cannot be said that the test of competition between the acquired and acquiring corporations (or between two acquired corporations) has been discarded.<sup>2</sup> Moreover, it should be noted that there may be a violation of the Act even though there is no effect on nation-wide competition, if there is a substantial lessening of competition in a particular geographic area or as to a particular product.<sup>3</sup>

It does not necessarily follow from the acquisition by one corporation of a large percentage or all of the stock of one or more other corporations that competition between them has been substantially lessened,<sup>4</sup> but the question of the continuance of competition between a parent and its subsidiary, where both are engaged in the same type of business, should be examined with care.

Fleets of insurance companies present varying degrees of competition between the companies of which they are composed. In most instances the companies in a fleet are represented by different agents, between whom there is active competition. At the same time the existence of a single top management with varying degrees of control should be considered in each case to determine whether this has resulted in a substantial lessening of competition between the various members of the fleet. Also important is the historical background of each fleet, for subsidiary corporations may have been acquired without the purpose, or the effect, of lessening competition. There are substantial differences between one fleet and another, so that each fleet must be considered on the basis of its own practices and methods of operation.

Section 7 deals only with acquisition of stock and does not apply to merger, consolidation or other acquisition of assets of another corporation. The Supreme Court has held that even though an acquisition of the stock of a competitor was in violation of Section 7, if the assets of the acquired company are transferred to the parent corporation before the Commission brings proceedings under Section 7, the Commission may not order the corporation to divest itself of those assets.<sup>5</sup>

Assuming an acquisition of stock which resulted in a substantial lessening of competition, the application of Section 7 to the insurance business presents several other questions. Does the decision in the South-Eastern Underwriters case have a retroactive effect, so that the provisions of the Clayton Act apply from October 15, 1914, the date of its enactment? Can proceedings still be brought in respect to acquisitions which occurred years ago? May an acquisition of stock during the moratorium provided for in Public Law 15 be subject to attack after January 1, 1948? For present purposes it will be safer to assume that the court would answer each of these questions in the affirmative, although we recognize that there are strong arguments to the contrary.

<sup>1</sup> *United States v. Republic Steel Corporation*, 11 Fed. Supp. 117 (D. C., N. D. Ohio, 1935); *V. Vivaudou, Inc. v. F. T. C.*, 54 F. (2d) 273 (C. C. A. 2nd, 1931); *Moody & Waters Co. v. Case-Moody Pie Corporation*, 187 N. E. 813 (Ill., 1933). State statute involved was substantially a reenactment of Sec. 7 of the Clayton Act.

<sup>2</sup> *Pennsylvania R. Co. v. Interstate Commerce Commission*, 66 F. (2d), 37 (C. C. A. 3rd, 1933), aff'd 291 U. S. 651 (1934); *Temple Anthracite Coal Co. v. F. T. C.*, 51 F. (2d), 656 (C. C. A. 3rd, 1931); *V. Vivaudou, Inc. v. F. T. C.*, supra; *National Supply Co. v. Hillman*, 57 Fed. Supp. 4 (D. C., W. D. Pa., 1944).

<sup>3</sup> *Indiana Farmer's Guide Co. v. Prairie Company*, 293 U. S. 268 (1934). This was a Sherman Act case; *Swift & Co. v. Federal Trade Commission*, 8 F. (2d) 595 (C. C. A. 7th, 1925). Reversed on other grounds 272 U. S. 554; *Western Meat Co. v. Federal Trade Commission*, 1 Fed. (2) 95 (C. C. A. 9th, 1924), form of order modified 4 Fed. (2) 223, Commission's order restored 272 U. S., 554.

<sup>4</sup> *Pennsylvania R. Co. v. Interstate Commerce Commission*, supra; *Temple Anthracite Coal Co. v. F. T. C.*, supra.

<sup>5</sup> *F. T. C. v. Western Meat Company*; *Thacher Manufacturing Company v. F. T. C.*; *Swift & Company v. F. T. C.*, 272 U. S. 554 (1926). Chief Justice Taft and Justices Holmes, Brandeis and Stone dissented.

Section 8 of the Act provides that no person shall at the same time be a director in two or more corporations (with certain exceptions such as banks), any one of which has capital surplus and undivided profits aggregating more than one million dollars, if such corporations are or have been competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the anti-trust laws.

The test of whether the elimination of competition by agreement between the companies involved would constitute a violation of any of the anti-trust laws brings into the interpretation of this section the standards of the Sherman Act, since that is the Act which might be violated by such an agreement. It is therefore necessary that each fleet or group of companies examine its own arrangements and practices to determine whether its activities involve such an elimination of competition as would result in an undue restraint of trade, or whether its arrangements and operations have an effect on competition so small as not to constitute an undue or unreasonable restraint within the prohibitions of the Sherman Act.

Section 10 of the Act provides that no common carrier shall have any dealings in securities, supplies or other articles of commerce, to the amount of more than \$50,000 in one year, with another corporation, firm or association when the common carrier has on its board of directors or as its president, manager or purchasing or selling officer, or agent in the particular transaction, any one who is a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, or association, unless such dealings are pursuant to competitive bidding. The section specifies penalties which may be imposed on the common carrier or on the directors, agents, managers or officers of the common carrier involved in the violation.

For the protection of its own directors, officers and employees, an insurance company which underwrites risks of railroads or other common carriers will wish to review the question of possible applicability of this section in its case.

### *Relief Through State Legislation*

Since the Clayton Act supplements the Sherman Act, we are postponing discussion of State legislation to meet Clayton Act problems until we have developed the Sherman Act problems.

## II.

### FEDERAL TRADE COMMISSION ACT

The Federal Trade Commission Act<sup>1</sup> is declared by Public Law 15 to be inapplicable to the business of insurance until January 1, 1948 and thereafter to be applicable "to the extent that such business is not regulated by State law."

Section 5 of the Act declares unfair methods of competition and unfair or deceptive acts or practices in interstate or foreign commerce to be unlawful.

The Act created the Federal Trade Commission and empowered it to prevent the use of unfair methods of competition.

Under Section 6 of the Act the Commission is given broad independent rights of investigation, among which are powers to

- gather and compile information and investigate the organization, business, conduct, practices and management of any corporation;
- require corporations to file reports, either annual or special, including answers to detailed questionnaires;
- investigate compliance with anti-trust decrees;

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<sup>1</sup> Act of September 26, 1914, 15 U. S. C. A., 41 *et seq.*



investigate and report facts relating to suspected violations of the anti-trust Acts;

make recommendations for the readjustment of the business of a corporation alleged to be violating the anti-trust Acts.

The Commission is also charged with enforcement of the Robinson-Patman Act and of Sections 2, 3, 7 and 8 of the Clayton Act, which are the sections dealing with discrimination, agreements not to use goods of competitors, acquisition of stock of competitors and interlocking directorates.

The Commission, after investigation, may issue a cease and desist order, which is reviewable and enforceable by the United States Circuit Court of Appeals. The penalty for each violation of an order to cease and desist is \$5,000, to be recovered by the United States in a civil proceeding.

The findings of the Commission as to facts, if supported by testimony, are declared to be conclusive.

The purpose of the Act is to implement the anti-trust Acts by anticipating and preventing violations.

"Instead of attempting to inflict punishment for having done prohibited acts, instead of enjoining the continuance of prohibited combinations and compelling disintegration of those formed in violation of law, the act undertook to preserve competition through supervisory action of the Commission. The potency of accomplished facts had already been demonstrated. The task of the Commission was to protect competitive business from *further* inroads by monopoly. It was to be ever vigilant. If it discovered that any business concern had used any practice which would be likely to result in public injury — because in its nature it would tend to aid or develop into a restraint of trade — the Commission was directed to intervene, before any act should be done or condition arise violative of the Anti-Trust Act."<sup>1</sup>

Congress did not attempt to define what methods and practices should be deemed unfair, but left that determination to the Commission.<sup>2</sup>

Methods and practices which the Commission has in the past found to be unfair offer some guide to what it might hereafter hold to be unfair in the business of insurance, but these are only a guide since what constitutes unfair methods may vary greatly from one industry to another or even within the same industry under different circumstances.<sup>3</sup> Furthermore, methods which might be unobjectionable where there are a number of competitors of substantially the same size and power may become objectionable when used by a competitor which dominates the field.<sup>4</sup>

The Commission in its Annual Report for 1938 (pp. 70-75), summarized 27 methods of competition which it condemned as violative of the Act, exclusive of specific practices outlawed by the Clayton Act. We list below those which are of such broad application that they should be brought to the attention of the insurance business.

#### *False advertising and mis-branding:*

False and misleading advertising calculated to mislead or deceive the purchasing public to their damage and to the injury of competitors.

<sup>1</sup> Justice Brandeis dissenting in *F. T. C. v. Gratz*, 253 U. S. 421, 434-5 (1920).

<sup>2</sup> "The Committee gave careful consideration to the question as to whether it would attempt to define the many and variable unfair practices which prevail in commerce and to forbid their continuance or whether it would, by a general declaration condemning unfair practices, leave it to the commission to determine what practices were unfair. It concluded that the latter course would be the better. . . ." — Report Senate Committee on Interstate Commerce, June 13, 1914, 63d Cong., 2d Sess., No. 597, p. 13.

<sup>3</sup> Mr. Justice Brandeis, *F. T. C. v. Gratz*, 153 U. S. 421, 436.

<sup>4</sup> Report of the Board of Corporations on the International Harvester Co., March 3, 1913, p. 30.

*Commercial bribery:*

Bribing buyers or other employees of the customers to secure or hold patronage.

*Trade secrets:*

Procuring the business or trade secrets of competitors by espionage or bribery.

*Inducing breach of employment contracts:*

Enticing away employees of competitors in such numbers or under such circumstances as to hamper or embarrass the competitor.

*Disparagement:*

Making false and disparaging statements respecting competitors' products, their value and safety, and respecting competitor's business and financial credit.

*Passing off:*

Passing off goods for well and favorably known products of competitors.

*Bogus independents:*

Using concealed subsidiaries ostensibly independent to obtain competitors' business advantages.

*Price misrepresentations:*

Schemes to create the impression in the mind of the prospective customer that he is being offered an opportunity to make a purchase under unusually favorable conditions when such is not the case. This includes sales plans where the seller falsely represents his price to be a special reduction.

*Advantage of dealing with seller:*

Misrepresenting the necessity or desirability or the advantages to the customer of dealing with the seller.

*Fraud:*

Obtaining business through undertakings not intended to be carried out and through deceptive, dishonest and oppressive devices calculated to entrap the customer.

*Sales below cost:*

Selling below cost with the intent and effect of hindering, stifling and suppressing competition.

*Misrepresentation of product:*

Employing false and misleading representations to give products a standing, merit and value which they would not otherwise possess, tending to mislead the public into purchasing the products in the erroneous beliefs engendered by the false representations.

The Commission also listed other condemned practices which are in substance violations of the Sherman Act, such as

Trade boycotts or combinations of traders to prevent certain middlemen or classes of them from procuring goods on the same terms as others, or to coerce the trade policy of competitors.

Resale price maintenance (in the absence of a State fair trade law under the Miller-Tydings amendment to the Sherman Act).

Combinations or agreements of competitors to enhance or maintain prices, bring about substantial uniformity in prices, or divide territory or business, or to close markets to competitors.

Use by association of methods tending to result in uniform prices or practices.

It must be emphasized that the Commission's powers of investigation under

Section 6 are not necessarily limited to situations involving unfair methods or violations of the anti-trust acts. The Commission has conducted many broad investigations either at the behest of Congress or on its own motion and, except as the power may be limited under Public Law 15, such investigation of the insurance industry or a branch of it might be made by the Commission at any time after January 1, 1948.

### *Relief Through State Legislation:*

A State statute, whether it vests broad power in an insurance official to order insurance companies to terminate improper or unfair practices, or whether it parallels the Federal Trade Commission Act and applies to all types of business within that State, would seem to make Section 5 of the Federal Trade Commission Act (the power to issue cease and desist orders) inapplicable in that State.

Relief through State legislation from the broad investigating powers of the Commission under Section 6 presents a more difficult problem. The existence in a State of a commission, or an insurance official, having as broad powers of investigation as those vested in the Federal Trade Commission under Section 6 of the Act, might be held to render that section inapplicable to the insurance business in that State, and thereby deprive the Federal Trade Commission of power to conduct an investigation in that State. On the other hand, it might be held that the Federal Trade Commission's investigatory powers under Section 6, in-so-far as Section 6 provides for the gathering of information, can co-exist with such State powers on the theory that the mere gathering of information by a State does not constitute regulation within the meaning of Public Law 15. Furthermore, Congress can at any time order the Federal Trade Commission to conduct an investigation, irrespective of Public Law 15.

## III.

### ROBINSON-PATMAN ACT

The Robinson-Patman Act<sup>1</sup> was passed in 1936, to prevent unfair price discrimination, direct or indirect, which affects interstate or foreign commerce. It was the result of the Federal Trade Commission's report on advantages enjoyed by chain stores.

The Robinson-Patman Act seeks to protect the competitive equality of the individual, whereas the Sherman Act seeks to protect competition generally.

Section 1 of the Robinson-Patman Act, which amends Section 2 of the Clayton Act, and is part of that Act, makes it unlawful for any person to discriminate in price between different purchasers of commodities of like grade and quality where the effect may be substantially to lessen competition or tend to create a monopoly. Differentials are permissible to make allowance for differences in costs of manufacture, sale or delivery and the section contains certain other qualifications.

The Act contains a provision under which a seller may show that his lower price was made in good faith to meet an equally low price of a competitor. It is not clear to what extent such a showing constitutes a defense.

It is also made unlawful knowingly to induce or receive a prohibited discrimination in price.

In order to prevent indirect discrimination Section 1 makes it unlawful

(a) to pay any commission or other compensation to purchasers or to intermediaries not under the control of the seller, except for services rendered, or to receive such commissions or brokerage;

(b) to give any compensation for services or facilities furnished by the cus-

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<sup>1</sup> Act of June 19, 1936, 15 U. S. C. A. 13, 13a, 13b, 21a.



tomor or to furnish any services or facilities to the customer unless made available on proportionally equal terms to all competitors of that customer.

The prohibition referred to in (a) has been construed as absolutely forbidding the payment by the seller of a commission or brokerage to an agent or broker representing the buyer.<sup>1</sup>

Section 1 of the Robinson-Patman Act being a part of the Clayton Act, a private person may bring a suit for an injunction or for triple damages. The Federal Trade Commission may issue cease and desist orders, and the Department of Justice may bring civil proceedings for injunctions.

Sections 2 and 4 of the Robinson-Patman Act are not material to the present discussion.

Section 3, the remaining section of the Robinson-Patman Act (which section is not part of the Clayton Act) makes unlawful

(a) Any discrimination against competitors of the purchaser by granting to the purchaser any allowance not available to such competitors "in respect of a sale of goods of like grade, quality, and quantity";

(b) sales of goods in one part of the United States at prices lower than elsewhere or at unreasonably low prices, in either case for the purpose of destroying competition.

Violation of this section is punishable by fine or imprisonment, or both.

### *Applicability to the Business of Insurance*

This report does not deal with purchases and sales of tangible goods by an insurance company.

The applicability of the Robinson-Patman Act to insurance depends on whether its terms are broad enough to include insurance. The key words in the Act are "commodities" and "goods, wares and merchandise." The Act is not applicable unless insurance be found to be within the meaning of those words as used in the Act.

The dictionary definitions of these words indicate that while they can be used in a broad sense to cover all personal property, the more general use is limited to tangibles.

That Congress used them in their usual sense of tangible personal property is evident by the use in the Act of the following expressions which normally relate only to tangibles:

- "where such commodities are sold for use, consumption or resale";
- "cost of manufacturing, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered";
- "fix and establish quantity limits";
- "marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods";
- "the processing, handling, sale or offering for sale of any products or commodities manufactured, sold or offered for sale by such person";
- "a commodity bought for resale with or without processing".

None of these phrases is an apt expression for use in describing or referring to insurance.

<sup>1</sup> *Great Atlantic & Pacific Tea Co. v. Federal Trade Commission*, 106 F. 2d 667 (C. C. A. 3rd, 1939); *Webb-Crawford Co. v. Federal Trade Commission*, 109 F. 2d 268 (C. C. A. 5th, 1940); *Quality Bakers v. Federal Trade Commission*, 114 F. 2d 393 (C. C. A. 1st, 1940); *Fitch v. Kentucky-Tennessee Light & Power Co.*, 136 F. 2d 12 (C. C. A. 6th, 1943); *Modern Marketing Service v. Federal Trade Commission*, CCH Trade Regulation Service, Par. 57, 383 (C. C. A. 7th, June 13, 1945).

Writing insurance is very different from the sale of a commodity where identical units in quantity are sold to many customers. The view that insurance is not within the scope of the Act is supported by decisions on the meaning of the word commodity.

In *Paul v. Virginia*,<sup>1</sup> the United States Supreme Court said that insurance policies "are not commodities to be shipped or forwarded from one State to another." The decision in the Southeastern Underwriters case did not express a contrary view on this point.

A United States Circuit Court of Appeals held that the transportation of passengers by bus was not the sale of commodities within the meaning of Section 2 of the Clayton Act.<sup>2</sup> The Court said that the Act "clearly refers to a commodity such as merchandise" (p. 763).

A District Court of the United States held that a construction contract under which the price varied according to the type of brick selected was not within the Robinson-Patman Act, even though it involved commodities in that there was a transfer of title to the materials.<sup>3</sup>

The Federal Trade Commission held that a sale of advertising space was not a sale of a commodity within the meaning of the Robinson-Patman Act.<sup>4</sup>

A number of State courts have held that insurance is not a commodity<sup>5</sup> or merchandise<sup>6</sup> within the meaning of those terms as used in State statutes.

Since Section 1 of the Robinson-Patman Act is part of the Clayton Act, which Section 2(b) of Public Law 15 makes applicable to insurance after January 1, 1948, it may be argued that the effect of Section 2(b) is to declare insurance to be a commodity. However, we think that this is not the correct construction of Public Law 15.

While the question cannot be definitely settled until the Supreme Court passes upon it, we believe that the reference in the Robinson-Patman Act to commodities, goods, wares and merchandise does not embrace the business of insurance.

#### *If Insurance Held to be Commodity*

The Robinson-Patman Act is included in the moratorium provisions of Public Law 15, and therefore is definitely inapplicable to insurance until 1948.

The following paragraphs deal with questions which will arise after January 1, 1948 if insurance is held to be a "commodity" or "goods, wares or merchandise."

The effect of Section 2(b) of Public Law 15 is to treat Sections 1 and 3 of the Robinson-Patman Act differently as regards their relation to State law.

The proviso at the end of Section 2(b) states that the Clayton Act, Section 2 of which is Section 1 of the Robinson-Patman Act, shall be applicable to the business of insurance after January 1, 1948 "to the extent that such business is not regulated by State law."

<sup>1</sup> 8 Wall. 168 (1869).

<sup>2</sup> *Fleetway Inc. v. Public Service Trans. Co.*, 72 Fed. 2d 761 (C. C. A. 3rd, 1934); Cert. Den. 293 U. S. 626. This case was decided prior to the Robinson-Patman amendment of Section 2 of the Clayton Act, but the language was similar.

<sup>3</sup> *General Shale Products Corp. v. Struck Const. Co.*, 37 F. Supp. 598 (D. C. W. D., Ky., 1941).

<sup>4</sup> Informal opinion of F. T. C., 81 Cong. Rec., 8/25/37, C. C. H. Trade Reg. Serv., Par. 2212. 127.

<sup>5</sup> *Werth v. Fire Companies Adj. Bureau*, 171 S. E. 255 (Va., 1933). Cert. Den. 290 U. S., 659; *Brock v. Hardie*, 154 So. 690 (Fla., 1934); *Queens Ins. Co. v. State*, 24 S. W. 397 (Tex., 1893); *Palatine Ins. Co. v. Griffin*, 202 S. W. 1014 (Tex., 1918); *State v. Bovee*, 6 Ohio N. P. (NS) 337, Common Pleas, Loraine County (1907); Contra *Beechley v. Mulville*, 70 N. W. 107 (Iowa, 1897).

<sup>6</sup> *Aetna Ins. Co. v. Commonwealth*, 106 Ky. 864, 51 S. W. 624 (1899); *Harris v. Commonwealth*, 113 Va. 746, 73 S. E. 561 (1912).

This proviso does not mention the Robinson-Patman Act, and therefore, of course, does not cover the status after January 1, 1948 of Section 3 of the Robinson-Patman Act, which is not part of the Clayton Act. Section 3 is, however, as is Section 1, within the first clause of Section 2(b) of Public Law 15 which provides that no Act of Congress, unless specifically relating to insurance, shall be construed to invalidate, impair or supersede any State law enacted for the purpose of regulating insurance.

It is not clear what significance is to be attached to the different treatment of the two sections of the Robinson-Patman Act or whether there will ultimately prove to be a difference in their relation to State law.

The great majority of the States have laws forbidding discrimination in insurance rates and barring rebates of premiums. Since they were drawn to cover the situations found in the insurance business they deal with discrimination in terms relating specifically to insurance. The Robinson-Patman Act being for the sale of commodities generally is drawn in more general terms.

We believe that State anti-discrimination and anti-rebate laws and State law providing for the licensing of brokers and recognizing the propriety of payment of commissions to them constitute regulatory legislation within the meaning of Public Law 15 and, therefore, to the extent that they deal with the practices against which the Robinson-Patman Act is directed, will make Section 1 of the Robinson-Patman Act inapplicable. Moreover, the application of the Robinson-Patman Act to insurance would result in impairing or superseding such State laws in cases where it conflicts with them.

In view of these considerations and of the declaration of policy in Public Law 15 that the business of insurance and every person engaged therein shall be subject to the laws of the several States which relate to the regulation of such business, we believe that if insurance is held to be a commodity, State laws will, in the field which they cover, give a large degree of immunity from the Robinson-Patman Act.

To the extent that premium rates are regulated under State law within the contemplation of Public Law 15, some additional measure of protection is afforded against the Robinson-Patman Act. Where rates are thus regulated, a finding that such rates were discriminatory so as to constitute a violation of the Robinson-Patman Act might involve an encroachment on State regulation or an impairment of the State law.

#### *Relief Through State Legislation*

We believe that insurance will not be held to be a commodity or goods, wares or merchandise, and therefore the Robinson-Patman Act will not apply to the business of insurance. However, if it should be held to apply, the State anti-discrimination and anti-rebate laws and laws relating to the licensing of brokers and payment of commissions will give a substantial degree of immunity from the Robinson-Patman Act to that part of the insurance business covered by those State laws; and State regulation of rates will give additional protection against a finding that such rates are discriminations in violation of the Robinson-Patman Act.

July 17, 1945.

### THIRD REPORT OF SUBCOMMITTEE OF LAWYERS TO THE COMMITTEE ON LAWS OF THE NATIONAL BOARD OF FIRE UNDERWRITERS PURSUANT TO RESOLUTION ADOPTED AT MAY 9, 1945 MEETING

In our first report we considered the effect of the immediate applicability of the Sherman Act to the business of insurance, in-so-far as acts or agreements of boycott, coercion or intimidation are concerned.



In our second report we considered the impact of the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act on the business of insurance after January 1, 1948, apart from State legislation and the possibilities through State legislation of removing or lessening the impact of the Federal Trade Commission Act and the Robinson-Patman Act.

This report discusses the impact of the Sherman Act on the business of insurance after January 1, 1948, apart from State legislation and the possibilities, through State legislation, of removing or lessening that impact.

### *Scope of This Report*

After a discussion of the Sherman Act and relevant cases, the following specific activities and practices in the fire insurance business will be considered in light of the Sherman Act:

1. Joint rate making ..... p. 31
  - as to risks located in a single State;
  - as to risks in a single State where the rates cannot be filed in advance;
  - as to risks located in more than one State;
  - as to risks which are transported from one State to another; and
  - agreements to maintain rates.
2. Stamping and audit bureaus ..... p. 32
3. Policies and forms ..... p. 33
4. Commissions, as they are controlled or affected by concerted action .. p. 33
5. Limitations on appointment of local agents ..... p. 34
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## THE LAW APART FROM STATE LEGISLATION

### *The Sherman Act*

The Sherman Act provides for fine or imprisonment, or both, of every person (1) who shall make any contract or engage in any combination or conspiracy in restraint of trade or commerce among the several States or with foreign nations, or (2) who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize such trade or commerce. In addition to the criminal penalties, the United States by suit in equity may prevent or restrain violations of the Sherman Act. Such violations may also be enjoined and triple damages may be recovered in suits by persons injured as a result of such violations.

### *Price*

While the Supreme Court has held that under the so-called "rule of reason" not all restraints of trade are violations of the Sherman Act, the court has said in many cases (though in none involving insurance) that it will not inquire into the reasonableness of price fixing as such — "Price-fixing, reasonable or unreasonable, is 'unlawful per se'".<sup>1</sup>

In the words of the Madison Oil Case<sup>2</sup>

"Any combination which tampers with price structures is engaged in an unlawful activity."

and again,

<sup>1</sup> *United States v. Bausch & Lomb Optical Co.*, 321 U. S. 707, 720 (1944).

<sup>2</sup> *United States v. Socony-Vacuum Oil Co.*, 310 U. S. 150, 221, 223 (1940).

"Under the Sherman Act a combination formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing the price of a commodity in interstate or foreign commerce is illegal *per se*."

Because of the differences between price-fixing dealt with in the adjudicated cases, and joint activities to determine a proper insurance premium, it is possible that the Supreme Court might distinguish such joint activities from price-fixing.

Without minimizing the possibility that the Supreme Court will make this distinction, the following discussion is based on an assumption that the ordinary rules as to price-fixing will be applied to joint rate making activities in the insurance business.

### *Parts of Price*

The rule against price-fixing has been applied not only to the ultimate price but to its component parts. The Supreme Court in the *Sugar Institute* case<sup>1</sup> affirmed an injunction against restrictions as to commissions, quantity discounts and absorption of freight charges. The Federal Trade Commission has condemned uniformity as to discounts,<sup>2</sup> freight charges<sup>3</sup> and terms of sale.<sup>4</sup>

However, with few exceptions<sup>5</sup> the condemned agreements were part of a broader price-fixing scheme<sup>6</sup> and in at least one case where it was not part of such a scheme, such an agreement was upheld.<sup>7</sup> Moreover, the Federal Trade Commission in its Report on Open Price Association (1929) said:

"It is, of course, not approximate uniformity or stabilization of prices as such that is illegal, but the bringing about of such a result by agreement. An agreement may be tacit and difficult to prove. Furthermore, as regards elements of price, as distinguished from the complete price, it is possible there is less of strict constructionism in the law than there was a few years ago. If the actual purpose is standardization and simplification of trade practices, the fact that there is an agreement with regard to certain price elements in order to further this purpose may not be considered decisive, even though the standards might be instituted or engineered to serve the purpose of agreement on prices — if the latter does not appear as a fact." (p. 256)

In view of the *Sugar Institute* case, decided since the above statement was made, it is today not clear that an agreement as to a component part of the price even in the absence of any fixing of the ultimate price would be upheld under the Sherman Act.

### *Statistics*

This does not mean that all joint activities relating to rates are illegal. Under Supreme Court decisions<sup>8</sup> members of an industry may file with a trade association past prices and general statistical information, and the trade association may analyze the information thus received and distribute the results to the members. Subsequently the Supreme Court permitted the members of the *Sugar Institute* to file their current and future prices,<sup>1</sup> the Court there saying:

"As free competition means a free and open market among both buyers and sellers, competition does not become less free merely because of the distribution of knowledge of the essential factors entering into commercial

<sup>1</sup> *Sugar Institute v. U. S.*, 297 U. S. 553 (1936).

<sup>2</sup> *U. S. Gold Leaf Manufacturers Association*, 1 F. T. C. 173 (1918); Stipulation No. 127, 10 F. T. C. 568 (1926); *California Rice Industry*, 26 F. T. C. 968 (1938).

<sup>3</sup> Stipulation No. 143, 10 F. T. C. 587 (1926).

<sup>4</sup> *The Rubber Manufacturers Association, Inc.*, 21 F. T. C. 176 (1935); *Edes Manufacturing Company*, 22 F. T. C. 447 (1936).

<sup>5</sup> Stipulation No. 143, 10 F. T. C. 587 (1926); *Retail Furniture Dealers Association of St. Louis*, 106 CCH, Par. 8747 (1936).

<sup>6</sup> *Sugar Institute v. U. S.*, supra.

<sup>7</sup> *Chamber of Commerce v. Federal Trade Commission*, 13 F. (2d), 673 (C. C. A. 8th, 1926).

<sup>8</sup> *Maple Flooring Assn. v. United States*, 268 U. S. 563 (1925); *Cement Manufacturers Assn. v. United States*, 268 U. S. 588 (1925).

transactions. The natural effect of the acquisition of the wider and more scientific knowledge of business conditions on the minds of those engaged in commerce, and the consequent stabilizing of production and price, cannot be said to be an unreasonable restraint or in any respect unlawful. *Maple Flooring Assn. v. United States*, 268 U. S. 563, 582, 583. In that case, we decided that trade associations which openly and fairly gather and disseminate information as to the cost of their product, the volume of production, the actual price which the product has brought in past transactions, stocks of merchandise on hand, approximate costs of transportation, without reaching or attempting to reach an agreement or concerted action with respect to prices or production or restraining competition, do not fall under the interdiction of the Act. *Id.*, p. 586. See, also, *Cement Manufacturers Assn. v. United States*, 268 U. S. 588, 604, 606." (pp. 598-9)

The members may not, however, agree to adhere to the price schedules which they file, but must be free to deviate without prior notice.<sup>2</sup>

The members apparently may not agree to file information under an arrangement imposing penalties for failure to file.<sup>3</sup> Industry members may not file, nor may their association circulate price and statistical information in such detail as to specific transactions as to indicate that the information is sought to check up on the observance of a price understanding.<sup>4</sup>

While the trade association need not make public all of the information gathered, it is necessary to make available such of the information as is of legitimate interest to the public.<sup>5</sup>

In the *Maple Flooring* case the Supreme Court upheld circulation among the members of average costs which included a distribution of the aggregate cost among the different types and grades of finished flooring. The Court said:

"It cannot, we think, be questioned that data as to the average cost of flooring circulated among the members of the Association, when combined with a calculated freight rate which is either exactly or approximately the freight rate from the point of shipment, plus an arbitrary percentage of profit, could be made the basis of fixing prices or for an agreement for price maintenance which, if found to exist, would, under the decisions of this Court, constitute a violation of the Sherman Act. But, as we have already said, the record is barren of evidence that the published list of costs and the freight-rate book have been so used by the present Association." (p. 572)

#### *Standardization and Simplification*

Standardizations of product are encouraged by the Federal Trade Commission.

The Report of the Federal Trade Commission on Open-Price Trade Associations (1929) said:

"Some of the most valuable kinds of association work may be classed as measures looking to greater economy and efficiency in business. Among these are standardization, simplification, and grading and inspection." (p. 204)

The attitude of the Commission towards standardization and simplification is illustrated in two of its cases brought against trade groups.

While an order issued against the members of the Lead Pencil Association<sup>6</sup> ordered that they cease consulting with each other with respect to a standardiza-

<sup>1</sup> *Sugar Institute v. United States*, 297 U. S. 553 (1936).

<sup>2</sup> *Sugar Institute v. United States*, 297 U. S. 553 (1936).

<sup>3</sup> *U. S. v. American Linseed Oil Co.*, 262 U. S. 371 (1923).

<sup>4</sup> *American Column & Lumber Co. v. U. S.*, 257 U. S. 377 (1921); *U. S. v. American Linseed Oil Co.*, 262 U. S. 371 (1923).

<sup>5</sup> *Sugar Institute v. United States*, *supra*.

<sup>6</sup> *The Joseph Dixon Crucible Co. et al*, 29 F. T. C. 749, Dicket 3643, Aug. 28, 1939.



tion program having as its objective the limitation of the styles, grades or qualities of pencils, the Commission added that nothing in the order should prevent the members from investigating or consulting with one another for the purpose of attempting to work out a simplification program for the pencil industry.

In another case against a group of milk and ice-cream can manufacturers<sup>1</sup> the Commission charged that the group had standardized the cans so they were of uniform material, weight and construction, but said it was not complaining against the standardization as such but only against its use as a means of carrying out a price-fixing conspiracy.

It should be noted that approval by the Federal Trade Commission, while helpful, does not give immunity from proceedings under the Sherman Act.

Standardization has been upheld by the courts as fair and reasonable in some cases<sup>2</sup> even though the result was to deprive the buyer of an opportunity to buy the products eliminated.

The Southern Pine Association established a committee on lumber standards, which set specifications as to sizes and grades of lumber, the seasoning and moisture content. The Association was charged to have violated the Sherman Act by using the grading system to destroy competition from non-members and by charging excessive fees to non-members for so-called services. A consent decree<sup>3</sup> allowed the grading activities to be continued, but ordered them carried on in a separate bureau open to all producers on equal terms, with control of the bureau in the hands of a representative of each pine lumber producing State with additional representatives of trade associations.

Two State Court decisions have upheld estimating and surveying activities by trade associations where the purpose was to save the expense involved in individual surveys and to obtain more accurate data. In both cases it was clear that there was no conspiracy to fix prices. In one of these cases<sup>4</sup> six manufacturers of sprinkler systems formed a bureau to make an engineering survey of each proposed installation to secure the information necessary for figuring the bids. Each member independently made its bid from the engineering information thus secured. The Court held this did not violate either the State anti-trust act or the Sherman Act.

In the other case,<sup>5</sup> a planing mill association advised its members of the exact items and quantities to be furnished under the plans and specifications of proposed buildings. The association guaranteed the accuracy of its lists. Each member then fixed his own bid. The association also required uniform forms of bids. The Court held that this activity did not violate the State anti-trust statute, saying:

"If competitors are not permitted to agree upon measures to eliminate, or at least to lessen, mistakes as to items and quantities, upon which bids are based, individuals, exercising ordinary business sagacity and acting alone, must recognize the possibility of mistakes and make allowance in their bids to meet such contingency. They will add such allowance in making up their bids, and the building public will ultimately foot the bill." (p. 786)

<sup>1</sup> *Keiner Williams Stamping Company*, 33 F. T. C. 1634, Docket 2199, July 31, 1941.

<sup>2</sup> *Maple Flooring Association v. United States*, 268 U. S. 563 (1925); *Cement Manufacturers Association v. United States*, 268 U. S. 588 (1925).

<sup>3</sup> *United States v. Southern Pine Asso.* (U. S. D. C., E. D., La., 1940), CCH Trade Reg. Serv. Vol. 3, 8th Ed., Par. 25, 394.

<sup>4</sup> *Berenson v. H. G. Vogel Co.*, 253 Mass. 185, 148 N. E. 450 (1925); cert. den. 269 U. S. 577 (1925).

<sup>5</sup> *State v. Carondelet Planing Mill Co.*, 309 Mo. 353, 274 S. W. 780 (1925). See also the *Southern Pine Association* case (supra) where the bureau maintained an inspection service.

*Government Attitude in S. E. U. A. Case*

The Government in its brief before the Supreme Court in the S. E. U. A. case recognized that cooperation in certain fields was permitted, saying:

"(a) There is, of course, a large area in which insurance companies may cooperate on matters of joint interest which do not extend to the fixing of rates. Some of the writers quoted by the appellees in support of cooperation in rate-fixing were referring in part to such other advantages of cooperation as joint action for more adequate supervision of risks, the study of hazards and reduction of incendiarism. The Government does not take issue with any such forms of cooperation. Nor is there any prohibition in the Sherman Act against the exchange of experience by companies and their cooperation in the classification and evaluation of this experience and the compilation of statistical data therefrom. (Cf. *Maple Flooring Assn. v. United States*, 268 U. S. 563.) It may be highly desirable for the loss experience of fire insurance companies to be pooled and analyzed in order that the scientific basis of the industry may approach the accuracy of life insurance. A legitimate function of a joint bureau, such as the present rating bureaus, may well be the formation of burning tables similar to the mortality tables of life insurance, showing the probability of loss on a property with given characteristics. It may also be conceded as desirable to have such joint bureaus inspect and classify risks, both to reduce costs, and to get more uniform data for scientific rating of hazards. Classification of the risk based on such joint inspection would not mean, however, that the price charged for insuring it would necessarily be the same for all companies.

"(b) (i) Even if it be assumed that the rating bureaus scientifically determine the probability of loss on particular properties, this would not justify the establishment of uniform premium rates for all companies. The final premium rates should be sufficient to cover (1) the amount necessary to pay losses, including an amount sufficient to maintain adequate reserves against conflagrations, (2) the administrative expenses, and (3) profits. It is only the first of these factors which is not subject to the control of the individual company, and as to which the joint use of common experience would result in uniformity." (Footnotes omitted) (pp. 109-111) (pp. 84, 85 in reprint.)

## SPECIFIC ACTIVITIES AND PRACTICES UNDER THE SHERMAN ACT, APART FROM STATE LEGISLATION

### 1. *Joint Rate Making*

As shown above, any tampering with the price structure in interstate commerce has been declared by the Supreme Court to be *per se* a violation of the Sherman Act.

Applied literally, this principle would make illegal any joint rate making with the purpose and effect of raising, depressing, fixing, pegging or stabilizing the premium rates, regardless of whether the risks involved were located in a single State, in more than one State, or transported from one State to another. Agreements to maintain rates would likewise be illegal.

To constitute a violation, it is not necessary to have any agreement or understanding to maintain the price. The Supreme Court has held to be a violation an agreement to adhere to announced prices until notice of change is given, even though each member was free to give such notice of change at any time.<sup>1</sup>

We believe, however, that the fire insurance industry may, with reasonable assurance that such activities would not be held to violate the Sherman Act, act in concert to:

<sup>1</sup> *Sugar Institute v. United States*, 297 U. S. 553 (1936).

Establish reasonable classifications for reporting premiums and losses, but there should not be a limitation that insurance written be confined to those classes.

Report premium rates, past and current, but each insurer should be free from any obligation not to vary with or without prior notice.

Report commissions and other expenses.

Analyze and distribute statistics collected, so long as the public has access to that part which is of interest to it.

Classify cities as to fire protection.

Inspect and classify risks.

The compilation of figures giving the average burning loss on for example cotton gins, which would be legal as indicated above, would be of little help to an individual company in fixing a proper rate on a particular gin. The average burning rate is only an average and the particular gin in question might have features that doubled or halved the risk. To make the figures useful the insurer must know the physical characteristics of the average cotton gin risk. Joint activity in establishing the specifications of such an average cotton gin, representative of the average burning loss, and the physical features that are significant variations from that average cotton gin, would seem to be only reporting physical facts rather than constituting price fixing or an unreasonable restraint.

However, the further step of joint determination of the percentage effect on the rate resulting from each such variation raises more of a problem. It might be said to be tampering with the price structure. While the *Maple Flooring, Berenson and Carondelet Plaining Mill* cases would tend to uphold such a joint activity, we are not prepared at this time to advise as to its legality.

In considering the permissible joint activities as to rates or any other matters, it should be borne in mind that an activity legal in itself may become illegal if a part of a program to fix or stabilize prices.

Mr. Justice Holmes,<sup>1</sup> in upholding an Iowa statute forbidding insurance companies to enter into any agreement relating to rates, commissions or their method of transacting business, said:

"The (Appellant's) bill seems to assume that the statute forbids insurance companies to obtain and use each other's experience, or to employ the same person to work up the results. It does not. It simply forbids an agreement between the companies relating to the rates which may be based upon those results. *No doubt an agreement between the companies readily would be inferred, if they were found all to charge the same rates;* but an agreement between the companies is the only thing aimed at, and if they avoid that they escape the law. So it was suggested in argument that they could not employ the same adjuster in case of loss. We do not perceive anything to hinder their doing so, although it may be that they would have to be careful about the terms of his authority." (Italics supplied.) (pp. 411, 412)

## 2. Stamping and Audit Bureaus

In the absence of joint rate making, the functions of a stamping and audit bureau would be limited to acting in a purely clerical capacity for the detection of errors. Companies for protection against violations of State laws against discrimination and to detect errors may wish to check their policies. This would be expensive if done by each company for itself. The stamping and auditing bureau provides this service at lower cost and in addition, because it is independent, gives greater protection against charges of discrimination.

<sup>1</sup> *Carroll v. Greenwich Insurance Co.*, 199 U. S. 401, 411-12 (1905).



Continuation of such service for companies which choose to file their own rates with such a bureau would not seem to involve any restraint of competition<sup>1</sup> so long as not part of a price fixing scheme.

### 3. Policies and Forms

Standardization and simplification activities in other industries have been encouraged by government agencies and upheld by the courts, so long as they are not steps in an illegal price fixing plan or do not constitute unreasonable restraints.

In the fire insurance business reliable statistics are a necessity, and these cannot be compiled without some standardization. Accordingly, we believe that an industry committee could legally develop recommended (but not obligatory) standard policies and forms, so long as they were not in aid of any illegal rate-making activity, were not designed to stabilize the ultimate premium, and met the reasonable needs of the insuring public.

### 4. Commissions

Fixing of commissions by joint action of insurers might be said to involve two restraints: first, as it affects the agents or brokers through limitation on their compensation and, second, as it affects the insured through the effect on the premium.

Since a combination fixing the price to be paid to sellers is as much a violation of the Sherman Act as a combination of sellers,<sup>2</sup> an agreement of insurers fixing the compensation to be paid to agents and brokers, i. e., the sellers, might be said to be price fixing, and thus not open to defense under the rule of reason.

In the *Sugar Institute* case,<sup>3</sup> an agreement fixing commissions to be paid to brokers was held to be a violation of the Sherman Act but on the ground that the commission was an important element in the cost of sugar. The court said there had been active competition for brokerage service prior to the regulation of commissions, and the regulation substantially restrained interstate commerce:

"Fairness in the commission rate does not validate an agreement, otherwise illegal." (p. 903)

On the other hand, in a prior case decided by a lower court (Circuit Court of Appeals), a rule of a Chamber of Commerce in support of a rule fixing commissions to be charged by its members for handling grain was upheld as reasonable.<sup>4</sup> The court said that abolition of the rule as sought by the Federal Trade Commission would reduce the commission to a point where only the strongest commission could survive.

"It seems evident that the careful protection of the uniform commission rule has preserved and developed the commission business and that business has, in turn, created and developed the selling end of the terminal market. The greatest beneficiary thereof is the producer, for he is always a seller." (p. 694)

The court concluded:

" \* \* \* that the purpose of the rules attacked was innocent; that the ends sought to be accomplished therethrough were proper; that the means were reasonable; that there is no substantial evidence that such restriction as necessarily results therefrom is undue or unfair." (p. 695)

<sup>1</sup> The Federal Trade Commission in a cease and desist order against the Metal Window Institute and its members forbade submitting estimates to be used as a basis of bids to a clearing bureau for any purpose other than detecting errors in interpretation of statistics or in the preparation of the estimates and forbade in any case submitting to the bureau the prices to be quoted. In the matter of Metal Window Institute et al, 25 F. T. C. 1478, Docket 2978, Nov. 30, 1937.

<sup>2</sup> *United States v. Borden Co.*, 308 U. S. 188 (1939); *Live Poultry Dealers Protective Ass'n v. United States*, 4 F. (2d) 840 (C. C. A. 2d, 1924).

<sup>3</sup> *United States v. Sugar Institute*, 15 F. Supp. 817, 903 (1934), affirmed 297 U. S. 553 (1936).

<sup>4</sup> *Chamber of Commerce v. Fed. Trade Com.*, 13 F. (2d) 673, 688-696 (C. C. A. 8th, 1926).

The *Chamber of Commerce* case was distinguished by the lower court in the *Sugar Institute* case on the ground that the legality of the commission rule itself did not seem to have been in issue. However, the *Chamber of Commerce* case did uphold a uniform commission rule and — while obviously weakened by the *Sugar Institute* case — has never been overruled specifically.

### 5. *Limitations on Appointment of Local Agents*

This section will consider company agreements and company association rules as to the appointment of local agents.

Rules restricting the appointment or eligibility of agents and brokers have been passed on by State courts in a number of cases. These cases did not involve the Sherman Act and some of them considered local board rules; however, they are of value in showing the attitude of the courts as to the reasonableness of such limitations.

The Supreme Court of Texas,<sup>1</sup> as late as 1942, upheld a rule of the Insurance Exchange of Houston excluding from membership persons engaged in the mortgage loan business, even where coupled with an in-and-out rule.

The Supreme Judicial Court of Massachusetts<sup>2</sup> refused to enjoin a group of insurance companies which established approved lists of brokers from whom they would accept business.

The Court of Appeals of Kentucky<sup>3</sup> held invalid a rule of the Louisville Board of Underwriters prohibiting members from employing more than one solicitor, saying:

"The majority of the members, under the guise of producing harmony in this business association, have taken from their individual members the right to determine how many men they shall employ in their private business, and then only such as the association may think fit for the position. (p. 868)

"The common law rule \* \* \* condemned all such restrictions upon trade and business intercourse with men as is found to exist in this case. \* \* \* In all classes of business the employer and employee should be allowed to contract with each other unrestrained by others who may demand that the one shall give more or the other receive less, and as a general rule, whenever restrictions are placed on their right by combinations or associations of men, they will be regarded as a violation of law and void." (p. 869)

This case was later specifically overruled,<sup>4</sup> but by a case which did not involve a limitation on the number of agents. The court there said it would uphold rules and regulations for the government of members if not unreasonable, arbitrary or oppressive.

Similar rules of other organizations have been before the courts with varying results.

The Supreme Court of Illinois<sup>5</sup> held invalid a rule of the Live-Stock Exchange prohibiting employment of more than three solicitors, who had to be members of the Exchange and be paid a salary, not a commission. The Court said this was a restraint of competition in that it prohibited an individual from contracting and engaging in business and using such agencies and means as he may desire.

<sup>1</sup> *Cline v. Insurance Exchange of Houston*, 166 S. W. (2d) 677 (1942).

<sup>2</sup> *Newstadt v. Employers Liability Assurance Corp.*, 21 N. E. (2) 538 (1939).

<sup>3</sup> *Houston v. Rentlinger*, 15 S. W. 867; 91 Ky. 303 (1891).

<sup>4</sup> *Louisville Bd. of Fire Underwriters v. Johnson*, 119 S. W. 153; 133 Ky. 797 (1909).

<sup>5</sup> *People v. Chicago Live-Stock Exchange*, 170 Ill. 556; 48 N. E. 1062 (1897). On the other hand that court had previously refused to enjoin a rule of the same live stock exchange fixing commissions, forbidding members dealing with non-members and barring the plaintiff from membership because it returned part of the commissions to the sellers who were its stockholders. *American Live-Stock Commission Co. v. Chicago Live-Stock Exchange*, 143 Ill. 210; 32 N. E. 274 (1892).

The Supreme Court in 1898 considered in two cases restrictive rules of a Live-Stock Exchange. Because of their age and because of the grounds for the decisions, neither is particularly helpful. In one<sup>1</sup> the court held that a rule forbidding members dealing with non-members was not a restraint of trade since anyone could become a member. In the other<sup>2</sup> rules forbidding members dealing with non-members and fixing commissions was held not in violation of the Sherman Act on the ground that the activities of the members were not interstate commerce.

In the *Sugar Institute* case,<sup>3</sup> the court enjoined a rule of the Sugar Institute which, to prevent secret concessions, forbade dealing with anyone who combined the functions of broker and warehouseman. This was a change from past practice and necessitated changes in the operations of many brokers and warehousemen. The lower court said: "Defendants have failed to show that less drastic methods, not so injurious to innocent third persons, would not have afforded them full protection against frauds" (p. 901). The court held that this concerted refusal to deal was not justified since other methods not involving material damage to innocent third persons were readily available. (p. 900)

The court indicated that on other facts it might have been justified, saying:

"If defendants had demonstrated, as they have not, that in the long run it would be economically wise and conducive to fairer competition, to create or maintain a distribution set-up composed of brokers, warehousemen, and merchandisers, each independent of the other, a different situation would be presented; then the 'freezing' of a particular set-up might be legally justifiable." (p. 900)

The court rejected the argument that the course of dealing with brokers and warehousemen was legally justified by the special relationship in which the refineries stood to those parties, saying that the test of the legality of such concerted action is its reasonableness.

Three States have attempted by statute to impose similar restrictions on the appointment of agents, but all three were declared unconstitutional.

The New York Court of Appeals<sup>4</sup> held unconstitutional a statutory requirement that to obtain a broker's license the applicant must certify that he intended to engage principally in the insurance business or intended to conduct his insurance business in connection with a real estate business. The court said that this was not in the public interest, but was in the interests of a limited class, was an arbitrary interference with a citizen's business pursuits and deprived him of that equal opportunity which the Constitution guarantees to him. The court said:

"There is no good reason, and no public interest can, conceivably, be subserved, in prohibiting persons from conducting the business of an insurance agent, or broker, in connection with any other lawful business, or occupation, in which they may be engaged." (pp. 461-2)

The Supreme Court of Washington<sup>5</sup> held unconstitutional a State statute limiting the number of agents for one company to one in cities of 50,000 or less and two in cities over 50,000. The court said:

"The right of every individual to engage in any lawful business cannot be prohibited, unless that prohibition is based upon some condition existing in the business which the court finds to be interfering with the public morals, health, safety or welfare.

<sup>1</sup> *Anderson v. United States*, 171 U. S. 604 (1898).

<sup>2</sup> *Hopkins v. United States*, 171 U. S. 578 (1898).

<sup>3</sup> *United States v. Sugar Institute*, 15 F. Supp. 817, 899-903 (1934).

<sup>4</sup> *Hauser v. North British & Mercantile Ins. Co.*, 206 N. Y. 455 (1912).

<sup>5</sup> *Northwestern National Ins. Co. v. Fishback*, 130 Wash. 490; 228 Pac. 516, 517 (1924).



"It (the Act) is in effect nothing more than the creation of a favored class who are permitted to engage in the lawful business of acting as insurance agents to the exclusion of everyone else from that business \* \* \*."

The Supreme Court of New Mexico held a similar law unconstitutional.<sup>1</sup>

As will be seen from the foregoing the courts have in general not looked with favor on rules limiting the opportunity for men to engage in a business<sup>2</sup> and it would seem that any such rule would require justification to be sustained.

The Supreme Court recognized that such a limitation was justified in some situations, when it approved a provision of a consent decree under the Sherman Act against the International Harvester Co. limiting the company to one agent or dealer in any city or town. The Supreme Court said<sup>3</sup> apropos of this provision:

"And, in general, it clearly appears that the single-dealer limitation in the consent decree has greatly enlarged the field of activity of its competitors, and has proved to be, as had been anticipated, an effective means of providing competitive conditions." (p. 706)

In considering the reasonableness of such rules in the insurance business, no absolute tests can be laid down. The courts would not necessarily reach the same conclusion as to the validity of each of the limitations in question. Limitation on the number of agents would involve different considerations from those involved in the rule restricting appointment as agents of persons engaged in other lines of business. Each situation must be examined on all its facts and in the light of the effect produced.

#### 6. Joint Action Through Participation in Pools and Syndicates

The Supreme Court in considering the validity of a combination to bid at a sale of property, laid down a general rule which is applicable to the question of joint participation in insurance pools and syndicates. The Court said:<sup>4</sup>

"We must, therefore, look beyond the mere fact of an association of persons formed for the purpose of bidding at this sale, as it may be not only unobjectionable, but oftentimes meritorious, if not necessary, and examine into the object and purposes of it; and if, upon such examination, it is found that the object and purpose are, not to prevent competition, but to enable, or as an inducement to the persons composing it, to participate in the biddings, the sale should be upheld—otherwise if for the purpose of shutting out competition, and depressing the sale, so as to obtain the property at a sacrifice.

"Each case must depend upon its own circumstances; the courts are quite competent to inquire into them, and to ascertain and determine the true character of each." (p. 520)

The Court also said:

"It is true that in every association formed to bid at the sale, and who appoint one of their number to bid in behalf of the company, there is an agreement, express or implied, that no other member will participate in the bidding; and hence, in one sense, it may be said to have the effect to prevent competition. But it by no means necessarily follows that if the association had not been formed, and each member left to bid on his own account, that the competition at the sale would be as strong and efficient as it would by reason of the joint bid for the benefit and upon the responsibility of all.

<sup>1</sup> *Franklin Fire Ins. Co. v. Montoya*, 32 N. M. 88; 251 Pac. 390 (1926).

<sup>2</sup> *Cf. Associated Press v. United States*, 65 Sup. Ct. Rep. 1416 (1945).

<sup>3</sup> *United States v. International Harvester Co.*, 274 U. S. 693, 706 (1927).

<sup>4</sup> *Kearney v. Taylor*, 56 U. S. 493 (1853). To the same effect, see *Hyer v. Richmond Traction Co.*, 168 U. S. 471 (1897).

The *Kearney* case was decided under the common law, before passage of the Sherman Act. However, the restraints of trade prohibited by that Act were the restraints known under the common law (*Apex Hosiery Co. v. Leader*, 310 U. S. 469, 494-5, 1940). It is believed that the tests laid down by this case would be applied today.

*The property at stake might be beyond the means of the individual, or might absorb more of them than he would desire to invest in the article, or be of a description that a mere capitalist, without practical men as associates, would not wish to encumber himself with." (Italics supplied.) (pp. 519-20)*

Where the association is formed with its principal purpose to restrain competition between its members, it becomes illegal.<sup>1</sup>

Under the principles of these cases competing insurance companies may join to underwrite risks beyond the capacity of individual companies, or which, through lack of experience, insufficient spread of risk, or other such factors, the member companies would not be interested in writing individually,<sup>2</sup> or could not, acting alone, efficiently or economically service. The test is whether the pool is formed for the purpose or with the effect of restraining competition — or whether instead the formation of the pool is reasonably necessary to write the proposed insurance.

We believe that such a pool could write the smaller as well as the larger risks of the class where the underwriting requires special knowledge, or servicing, or where the inclusion of all risks of the class is necessary to obtain a sufficient spread of risk.

Some limitation should be put on the size of such pools, i. e., that they should not be greater than is reasonably necessary, nor should the size of a pool be such as to restrict the opportunity for other companies to form similar competing pools.<sup>3 4</sup>

The existence of an ulterior motive such as to injure a competing company or pool, might render unlawful an otherwise lawful pool.

Agreements or understandings between two or more such pools would be subject to the same legal principles as in the case of competing companies.

## 7. Reinsurance

Common reasons for reinsurance are: the risk is larger than one company wants to retain; a company has too many risks in one place; the risk may be unusually hazardous; a company may be retiring from an agency or territory.

All these are lawful purposes and in themselves present no anti-trust problems.

Reinsurance with a reinsurance company which does no direct writing, or excess of loss reinsurance normally would not seem to raise questions of restraint of trade under the Sherman Act.

Reinsurance between competitors must be examined in view of possible attack as price fixing.

<sup>1</sup> *United States v. Addyston Pipe & Steel Co.*, 85 Fed. 271, 293 (1898); *McMullen v. Hoffman*, 174 U. S. 639 (1899).

<sup>2</sup> The Securities and Exchange Commission has expressed the opinion that the formation of an underwriting group to bid for a security issue, with provisions for a fixed offering price, price maintenance and stabilization of prices, is not unlawful *per se*. They said:

"We have already noted certain factors by which the lawfulness of the syndicate may be judged. Among these are: the size of the group in relation to the size of the issue, the suppression of competition in bidding or negotiating for the business, and the duration of a syndicate dictated by the manager and major underwriters." (*In the Matter of National Association of Securities, Inc.*, S. E. C. Release No. 3700, June 13, 1945, p. 45.)

<sup>3</sup> The Securities and Exchange Commission disapproved the sale of a block of common stock by a public utility where only one syndicate bid for the issue, on the ground that competitive conditions had not been maintained. One factor was the excessive size of the syndicate and the doubt that the remaining banking houses could have organized a rival syndicate. The Commission said:

"And finally, maintenance of competitive conditions does not mean, in any event, that underwriting strength may be combined indefinitely and indiscriminately, beyond the needs of the situation . . ." (*In the Matter of The North American Company*, S. E. C. Release No. 5870, June 19, 1945, p. 13.)

<sup>4</sup> Where a risk is so large as to require the combined capacity of the industry or the major part of it, it could not, of course, be restricted in size so as to permit formation of a competing pool. Such a pool should, however, be formed only for the specific risk involved.

Where the only agreement as to rate between the ceding and assuming companies is as to the reinsurance premium, the ceding company either having already written the business or being free to fix its own premium rate, there would seem to be no reasonable chance of a claim of price fixing or other unlawful restraint.

Where the ceding and assuming companies agree in advance on the premium rate at which the risks are to be written by the ceding company, but the purpose of the reinsurance agreement is simply to spread the risk and not part of a plan to stabilize premium rates, the agreement as to rates would be ancillary to a lawful agreement. We do not believe it would be held to be a violation of the Sherman Act.

There would be danger of attack by the government if exchange of reinsurance on a uniform basis resulted in uniformity of the direct premium rates charged by a large number of competing companies. This might be charged to be price fixing, even though the purpose was only to spread the risk. This danger would not be present if joint rate making were legal.

### 8. *Agency Balances and Other Credit Rules*

An association may gather credit information and circulate credit lists showing those who are delinquent in payments to members of the association.<sup>1</sup>

It is not a violation of the Sherman Act for the association to recommend that no member extend credit to a delinquent.<sup>2</sup>

Some courts have held that it is not a violation of the Sherman Act for members of an association to agree not to extend credit to a delinquent,<sup>3</sup> but there is language in the *Sugar Institute* case which indicates the lower court thought such an agreement would be illegal. It said:

"There is evidence indicating that refiners did not deem themselves bound by this recommendation, but exercised their own individual discretion in determining whether or not credit should be withdrawn." (15 F. Supp. 817, 892)

A recommendation or an agreement not to extend credit is very different from an agreement or understanding not to deal with the delinquent debtor even for cash. Such an agreement is a concerted refusal to deal and has been held to violate the Sherman Act.<sup>4</sup>

The Supreme Court in 1930<sup>5</sup> held illegal an agreement by motion picture distributors not to deal with any purchaser of a theatre who did not either assume any defaulted contract entered into by his predecessor or make a cash deposit specified by the group. The purpose was to prevent theatre owners from transferring their theatres to avoid carrying out their contracts and thus defraud the distributors. The concerted refusal to deal was not based on a default by the particular theatre owner but by the previous owner, technically a stranger, and the case can be distinguished on this ground from the ordinary credit rule. However, the court used broad language, saying:

"The obvious purpose of the arrangement is to restrict the liberty of those who have representatives on the Film Boards and secure their concerted action for the purpose of coercing certain purchasers of theatres by excluding them from the opportunity to deal in a free and untrammelled market." (p. 54)

<sup>1</sup> *Cement Manufacturers Association v. United States*, 268 U. S. 588 (1925).

<sup>2</sup> *Sugar Institute v. United States*, 15 F. Supp. 817 (1934) affirmed 297 U. S. 553 (1936). The lower court said: "Plaintiff (United States) apparently does not contend that it would be improper for the Institute to recommend withdrawal of credit in such circumstances" (p. 892).

<sup>3</sup> *United States v. Fur Dressers' & Fur Dyers' Ass'n*, 5 F. (2d) 869 (S. D. N. Y., 1925); *Putnal v. Inman*, 76 Fla. 553; 80 So. 316 (1918); *Woodhouse v. Powles*, 43 Wash. 617; 86 Pac. 1063 (1906).

<sup>4</sup> *Swift and Company v. United States*, 196 U. S. 375 (1905).

<sup>5</sup> *United States v. First National Pictures, Inc.*, 282 U. S. 44 (1930).



Group action by a group of creditors against their common debtor (the usual creditors' committee), to compel him to put his business in order under threat of bankruptcy, has in itself never been considered to be an unlawful combination.

Under the decided cases we believe that an insurance association may without violating the Sherman Act, provide for reporting agency delinquencies and for the appointment of a creditors' committee to supervise the affairs of an agency until its indebtedness is paid.

However, any rule or understanding that no other companies will enter an agency while it is in the hands of a committee, would seem to be a concerted refusal to deal (as distinguished from a refusal to extend credit) and difficult to justify legally.

### *9. Joint Action in Relation to Adjustment of Losses*

There would seem to be no restraint of competition in the employment by a number of insurers of an expert to ascertain facts as to the loss in a given case and make recommendations to the insurers involved as to the amount of the loss payable to the insured.

Mr. Justice Holmes,<sup>1</sup> in a case which involved an Iowa anti-campact law, said:

"So it was suggested in argument that they (the insurers) could not employ the same adjuster in case of loss. We do not perceive anything to hinder their doing so, although it may be that they would have to be careful about the terms of his authority." (p. 412)

An agreement between insurers on a risk that in case of loss one or more of them should select a common adjuster, while possibly involving some restraint, would seem to be reasonable and justified by the necessities of the situation arising from the joint interest of the insurers.

The organization by the industry of an adjustment company presents the question of a possible restraint on the independent adjusters. At the time of the formation of the Fire Companies' Adjustment Bureau, and independent adjuster brought suit complaining that the Bureau constituted a conspiracy to monopolize the fire-loss-adjustment business by excluding plaintiff and others engaged in the business. The Supreme Court of Appeals of Virginia<sup>2</sup> in a case not involving the Sherman Act, upheld the Bureau saying:

"We perceive in the plan no element of force or compulsion. Any member of the National Board of Fire Underwriters may employ an independent adjuster. It is true that the purpose of the corporation is to effect the cooperation of the member companies to have the defendant adjust fire losses, for reasons lawful in themselves and by means not unlawful. Neither the plan nor the evidence show that any member company is compelled to employ the defendant to adjust its losses. The fact is, the plaintiff is still employed by a number of such companies. Applying the law, as we conceive it to be, to the facts in the case in judgment, the complaint of the plaintiff of the existence of a common-law conspiracy is unsupported by the record." (p. 259)

In view of the emphasis placed by the Virginia Court on the freedom of action reserved to each insurer, company association rules, or agreements between insurers, requiring the use of a company-sponsored adjustment bureau or making the loss adjustment as determined by the adjuster binding on each insurer would be open to question and more difficult to justify.

The presence of boycott, coercion or intimidation or the use of loss adjustment as part of an illegal scheme, might render illegal an otherwise legal plan of loss adjustment.<sup>3</sup>

<sup>1</sup> *Carroll v. Greenwich Insurance Co.*, 199 U. S. 401 (1905).

<sup>2</sup> *Werth v. Fire Companies Adjustment Bureau*, 160 Va. 845; 171 S. E. 255, Cert. Den. 290 U. S. 659 (1933).

<sup>3</sup> See *Palatine Ins. Co. v. Griffin*, Court of Civil Appeals of Texas, 202 S. W. 1014 (1918).

## REMOVING OR LESSENING THE IMPACT OF THE SHERMAN ACT THROUGH STATE LEGISLATION

We believe that most if not all of the problems raised by the application of the Sherman Act to the insurance business can be solved legally by State legislation conforming to the requirements of Public Law 15. This conclusion is necessarily based on the assumption that such legislation will be upheld as constitutional.

The question of what legislation is necessary to solve the problems raised by the Sherman Act will be considered further and be covered by a later report.

September 12, 1945

## APPENDIX "H"

FOURTH REPORT OF SUBCOMMITTEE OF LAWYERS TO THE  
COMMITTEE ON LAWS OF THE NATIONAL BOARD OF  
FIRE UNDERWRITERS PURSUANT TO RESOLUTION  
ADOPTED AT MAY 9, 1945, MEETING

In our earlier reports we pointed out that after January 1, 1948 the Sherman Act, the Clayton Act (including Section 1 of the Robinson-Patman Act, which amended Section 2 of the Clayton Act) and the Federal Trade Commission Act will, under Section 2(b) of Public Law 15, be applicable to the business of insurance "to the extent that such business is not regulated by State law". (As to the status of Section 3 of the Robinson-Patman Act after January 1, 1948, reference is made to Part III of our Second Report.)

In this report we discuss the interpretation of Section 2(b) of Public Law 15, and the general nature and extent of State regulation which would meet the requirements of the clause quoted above. We also consider, with reference to the Sherman Act, specific types of State regulation of joint rate-making activities and their effectiveness in removing such activities from the impact of that Act.

It should, of course, be borne in mind that under the provisions of Public Law 15, State regulation will not render the Sherman Act inapplicable to boycott, coercion or intimidation.<sup>1</sup>

As in our previous reports, we are basing our discussion on the assumption that Public Law 15 is a constitutional exercise of Congressional power and permits valid State legislation incorporating the principles set forth below.

## I.

*Section 2(b) of Public Law 15*

Section 2(b) of Public Law 15, which is preceded by declarations in Section 1 and 2(a) affirming the regulation and taxation of the business of insurance by the States, reads as follows:

"(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after January 1, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law."

The first clause of this section (herein referred to as the impairment clause) appeared, in substance, in the bill recommended by the Insurance Commissioners in November 1944, in the compromise bill which was agreed to by the industry in January 1945 and in the bills which were reported by the Judiciary Committees of the Senate and House of Representatives in January and February 1945.

The proviso was added by the Committee of Conference of the two Houses, which did not, however, give any explanation of it in the Conference Report.

The debate in the Senate included some discussion of the proviso but, in view of the diversity of opinions, the limited range of the discussion and the uncertainty as to the extent to which those participating in the debate expressed the

<sup>1</sup> Section 3(b) of Public Law 15 provides:

"(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion or intimidation."



views of their colleagues who were silent or absent, this debate does not furnish any very clear light on the interpretation of the proviso. The Conference Report was agreed to by the House without debate. There is accordingly a paucity of legislative history to aid in the construction of the proviso.

The occasion for the insertion of the proviso was the endeavor to reconcile the differences in the bills as originally adopted by the Senate and House, particularly with respect to a clause inserted by amendment on the floor of the Senate, which would have made the Sherman and Clayton Acts fully applicable to the business of insurance after January 1, 1948 regardless of State laws. That clause was rejected in conference. The conferees did not state why the impairment clause alone was not then regarded as sufficient, but they apparently considered it necessary to state affirmatively the extent of the applicability of the Sherman Act, the Clayton Act and the Federal Trade Commission Act.

The relation between the impairment clause and the proviso is not entirely clear, but we think that, in considering the problems with which we have to deal, it would be well to assume that the applicability of the Sherman Act, the Clayton Act and the Federal Trade Commission Act to the business of insurance after January 1, 1948 is to be determined by the proviso rather than by the impairment clause.

The three Acts named above are the only Federal acts to which the following discussion relates and they are referred to in this Fourth Report as the "Federal Acts".

Since the enactment of Public Law 15, there have been one or two suggested interpretations of the proviso which, although they probably have not gained any wide acceptance, we think should be mentioned in order to cover the subject as completely as possible.

It has been suggested that to gain exemption from the Federal Acts in any State, there must be regulation in all 48 states. We find no basis for such an interpretation, either in the history or language of Public Law 15. We believe it is clear that regulation by one State affords exemption for the regulated activities in that State.

The same suggestion has been made as to regulation in a single State, that the regulation to give any exemption from the Federal Acts must cover every phase of the business in that State. This, too, we believe to be without foundation. Regulation by a State of one phase of the business gives protection to that phase, regardless of whether the regulatory laws cover any other phase of the business.

Another interpretation which has been advanced is that the applicability of the Federal Acts will depend on the effectiveness with which State insurance commissioners carry out their functions and duties under the State regulatory laws. We do not agree with this interpretation. We cannot believe the Supreme Court would so interpret Public Law 15 as to hold that the application of the Federal Acts depends on the diligence or lack of it on the part of individual State officials particularly in view of the constitutional difficulties this would present. Such an interpretation would result in applying the Federal Acts for one period and not for another. The immunity granted by Public Law 15 would be turned off and on, based on the efficiency of a State official. Such an interpretation would be a strained construction since the Act refers to regulation "by State law", it does not say "regulation under State law", or "regulation by public officials".

On the other hand, it must be recognized that if the regulation of insurance by the States should be ineffective or half-hearted, this might very well have some influence upon the result reached by the courts in the interpretation of Public Law 15. Questions which reach the Supreme Court can seldom be answered by reference to established legal principles or logical analysis alone; the Court is conscious of social and political trends. If the Court had doubts as to whether

the pattern of regulation established by State law met the requirements of Public Law 15, a showing that the regulation did not work successfully would tend to confirm these doubts.

In addition, the ineffectiveness of State regulation would influence the attitude of Congress and public opinion towards the policy established by Public Law 15. That, however, is an aspect of the subject which is beyond the scope of this report.

The central problem in the interpretation of the proviso is the meaning of "to the extent that such business is not regulated by State law". This is discussed in II below.

## II.

*The meaning of—"to the extent that such business is not regulated by State law".*

The word "regulate" is derived from the Latin word "rego", which means "to guide or direct" through a rule.<sup>1</sup> "To regulate" has been defined as to adjust, order, govern or control by rule or regulation, method or established mode;<sup>2</sup> to adjust, maintain or manage with respect to a desired rate, degree and condition and according to certain standards or rules;<sup>3</sup> to fix or control the manner in which a thing is to be done.<sup>4</sup>

"Regulation" has been defined as a rule or order prescribed by a superior for the management or government of some business, company or society;<sup>5</sup> a governing direction, precept or law;<sup>6</sup> a supervision by a legislative authorized agency;<sup>7</sup> the arranging in proper order and the control of that which already exists.<sup>8</sup>

Regulation therefore connotes a control<sup>9</sup> under established standards over the thing regulated. It does not ordinarily mean complete prohibition—rather restraint and check,<sup>10</sup> as contrasted with freedom from restraint.<sup>11</sup>

Regulation has received a broader interpretation in cases arising under the Congressional power to regulate interstate commerce. The prohibition of interstate transportation of lottery tickets was held to be an exercise of the power to regulate.<sup>12</sup>

The Supreme Court has gone so far as to hold<sup>13</sup>

<sup>1</sup> *Conlin v. Bd. of Sup'rs. of City and County of San Francisco*, 114 Cal. 404; 46 Pac. 279 (1896); *Hollywood Jockey Club v. Stein*, 133 Fla. 530; 182 So. 863 (1938).

<sup>2</sup> *Webster's New International Dictionary of the English Language* 2d Ed. (Unabridged) (1938); *Bouvier's Law Dictionary*, Vol. 2 (1914); *City of Butte v. Paltrovich*, 30 Mont. 18; 75 Pac. 521, (1904); *Van Ingen v. The Hudson Realty Co.*, 106 A.D. 444; 94 N. Y. Supp. 645 (1905); *Churchill v. Common Council*, 153 Mich. 931; 116 N.W. 558 (1908); *Ogden City v. Leo*, 54 Utah 556; 182 Pac. 530 (1919); *State ex rel. Wagner v. Fields, Mayor*, 218 Mo. App. 155; 263 S.W. 853 (1924); *Simpkins v. State*, 35 Okla. Cr. 143; 249 Pac. 168 (1926); *State v. Tippet*, 317 Mo. 319; 296 S.W. 132 (1927); *Marsh v. Bartlett*, 343 Mo. 526; 121 S.W. 2d. 737 (1938); *State ex rel. Saperstein v. Bass, Mayor*, 177 Tenn. 609; 152 S.W. 2d. 236 (1941).

<sup>3</sup> *Webster's New International Dictionary*, *supra*; *Marsh v. Bartlett*, *supra*.

<sup>4</sup> *Southern Ry. Co. v. Russell*, 133 Va. 292; 112 S.E. 700 (1922); *Ogden City v. Leo*, *supra*; *State v. Tippet*, *supra*.

<sup>5</sup> *Webster's International Dictionary*; *City of West Palm Beach v. Ryder*, 74 So. 602 (1917).

<sup>6</sup> *Webster's International Dictionary*.

<sup>7</sup> *In re Northwestern Indiana Tel. Co.*, 201 Ind. 667; 171 N.E. 65 (1930).

<sup>8</sup> *Cote v. City of Island Park*, 173 Mich. 201; 139 N.W. 69 (1912).

<sup>9</sup> The Supreme Court in *Georgia v. The Pennsylvania Railroad Co.*, 65 S.C.R. 716 (1945), indicated that while the railroads are a regulated industry through the control by the Interstate Commerce Commission of rates and certain activities, the regulation did not extend to the rate bureaus. The Court said:

"It (Congress) has not placed these combinations under the control and supervision of the Commission. Nor has it empowered the Commission to proceed against such combinations and through cease and desist orders or otherwise to put an end to their activities." (p. 725) (Italics supplied).

<sup>10</sup> *Thousand Island Park Assoc. v. Tucker*, 173 N.Y. 203; 65 N.E. 975 (1903).

<sup>11</sup> "It (regulation) negatives the idea that all acts which would ordinarily be performed in connection therewith may be so performed without any restraint or prohibition whatever . . ." *City of Tacoma v. Keisel*, 68 Wash. 685; 124 Pac. 137, 139 (1912).

<sup>12</sup> *Champion v. Ames*, 188 U. S. 321 (1903).

<sup>13</sup> *The Passenger Cases*, 48 U. S. 282, 463 (1849).

"That Congress has regulated commerce and intercourse with foreign nations and between the several States by willing that it shall be free."

It does not follow that what is held to be regulation under a constitutional grant of power would be held to be regulation under a statute, particularly one such as Public Law 15 which divides the field between State regulation and the prohibitions of the Federal anti-trust acts.

The words "regulate" and "regulation" have been defined or discussed in numerous other cases but none has been found which sheds further light on our question.

In view of the variety of meanings given by the Courts to the word "regulate", it is not possible to give a precise meaning to the word as used in Public Law 15.

It is therefore essential to consider the probable purpose of Congress. Since Congress declared that in the absence of regulation by the States or to the extent not so regulated, the Federal Acts shall apply to the business of insurance, it seems a logical conclusion that Congress wished to protect the public by making certain that the acts and practices against which the Federal Acts are directed will be subject either to the prohibitions of the Federal Acts or to the provisions of State law.

Some light is thrown on the probable intent of Congress by examination of other situations in which Congress granted exemption from the anti-trust acts. Instances in which Congress granted outright exemption, as for example, to labor organizations, are not pertinent in view of the requirement of Public Law 15 of regulation as a prerequisite to immunity.

In a number of instances, Congress has granted either express or implied immunity from its anti-trust acts, conditioned on control or review by a governmental agency or official, in accordance with established standards.

Under the Interstate Commerce Act,<sup>1</sup> carriers may, with the approval of the Commission, pool freights, divide earnings, and acquire competing carriers.

The Agricultural Adjustment Act of 1933<sup>2</sup> permits marketing agreements to which the Secretary of Agriculture is a party.

The Civil Aeronautics Act of 1938<sup>3</sup> permits agreements between air carriers as to pooling rates, fares and classifications, subject to approval by the Civil Aeronautics Board.

The Capper-Volstead Act<sup>4</sup> permits farmers and others engaged in the production of agricultural products to combine for processing, handling and marketing their products. The Secretary of Agriculture may issue a cease and desist order if he finds any such association is monopolizing or restraining trade or commerce to such an extent that the prices of the products are unduly enhanced.

The Fisheries Cooperative Marketing Act<sup>5</sup> grants fishermen the same rights as the Capper-Volstead Act grants to farmers, giving the Secretary of Agriculture the same right to issue cease and desist orders.

The Maloney Act<sup>6</sup> (Sec. 15A of the Securities and Exchange Act of 1934) grants broad privileges to associations of security brokers or dealers subject to registration with the Securities Exchange Commission, and to review by the Commission of disciplinary action against members or denial of admission to membership.

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<sup>1</sup> 48 U. S. C. A. 1.

<sup>2</sup> 7 U. S. C. A. 608.6.

<sup>3</sup> 49 U. S. C. A. 492, 494.

<sup>4</sup> 7 U. S. C. A. 291, 292.

<sup>5</sup> 15 U. S. C. A. 521, 522.

<sup>6</sup> 15 U. S. C. A. 78(a)-78(jj).



In each case, Congress authorized activities that might otherwise violate the anti-trust acts but substituted governmental control of the exempted activities. It does not follow that a State must adopt any particular kind of control, or necessarily provide an administrative body or official to supervise every activity.

Our conclusion is that to constitute regulation within the meaning of Public Law 15, a State statute must provide for control according to standards set by the State.

The next question is — what type of control is necessary. It seems clear that Congress did not have in mind any particular type or pattern of regulation — otherwise this would have been set forth in the Statute. As shown above, Congress itself has adopted different systems in different situations it has dealt with. The preamble to Public Law 15 declares that the continued regulation by the several States is in the public interest, indicating a Congressional recognition that at least some of the existing patterns of State insurance law constitute regulation.

The Supreme Court in both the prevailing and dissenting opinions in the *S.E.U.A.* case<sup>1</sup> also recognized that regulation is to be found among existing State laws.

Mr. Justice Black, in the prevailing opinion, said,  
 “The argument that the Sherman Act necessarily invalidates many State laws regulating insurance we regard as exaggerated. Few States go so far as to permit private insurance companies, without State supervision, to agree upon and fix uniform insurance rates.” (p. 562)

Chief Justice Stone, dissenting said,  
 “\*\*\* the States have developed extensive and effective systems of regulation of the insurance business, \*\*\*” (p. 580)

and again,

“\*\*\* vast efforts have gone into the development of schemes of State regulation and into the organization of the insurance business in conformity to such regulatory requirements.” (p. 581)

Mr. Justice Jackson, dissenting in part, said,

“Since 1851 the several States \*\*\* have been building up systems of regulation to discharge this duty towards their inhabitants.” (p. 584)

We conclude that a State is free to choose the types of control it feels will achieve the desired result in the particular situation, so long as the one chosen is reasonably adequate for the purpose.

Since Congress has left to each State the right to adopt its own system of regulation, the choice by a State of a particular system as constituting regulation, is entitled to be given great weight by the courts, but would not preclude the courts from holding that the system chosen did not in fact constitute regulation within the meaning of Public Law 15.

The final question is, what degree of control must be provided to render the Federal Acts inapplicable. This involves not only the meaning of the word “regulation”, but also the effect of the phrase “to the extent”, since Public Law 15 makes the Federal Acts applicable “to the extent that such business is not regulated by State law”.

This inquiry falls into two parts,

First, assuming a State undertakes regulation of a part of the business, what degree of control is necessary to constitute regulation of that part; and

<sup>1</sup> *United States v. South-Eastern Underwriters Association et al*, 322 U.S. 533 (1944).

Second, what immunity does regulation of one part of the business give to acts and practices not specifically covered by the regulation?

No precise answer can be given to the first question. The necessary State laws will contain many provisions dealing with the different phases of the insurance business, and no one test can be laid down to determine the degree of control required in every situation to meet the requirements of Public Law 15. The degree of danger to the public from the particular act or practice would influence the degree of control necessary. A tight control of one practice might permit a loosening of control of some related act or practice. The pattern of regulation must be examined as a whole.

As to the second question, we have already indicated in I above that regulation of one part of the business will not give immunity to another part not regulated. "To the extent" is not synonymous with "if regulated". On the other hand, where there is regulation of a part of the business, we do not believe that the words "to the extent" should be interpreted so literally as to make the Federal Acts apply to every detail not specifically dealt with by the State law. In any regulatory system, there are sure to be some relatively unimportant practices existing within the framework of the part of the business regulated, for which no specific control can be readily provided. These must be left to be dealt with under the investigatory powers of the Commissioner. We do not believe the courts should hold that the Federal Acts are to search out every nook and cranny of a regulatory system and apply wherever the State cannot point to a specific provision covering a particular act or practice. The mere threat of such interference with a State's regulation would make a regulatory system unworkable. Neither the language nor the purpose of Public Law 15 supports such an interpretation.

The purpose of Public Law 15 is to allow the States to take a different approach to the business of insurance from the approach of the Federal Acts. The very acts and practices forbidden by the Federal Acts may be permitted. The essential requirement is that the State deal with the acts and practices prohibited by the Federal Acts, and provide such control as is reasonably designed to effect the policy adopted by the State for the protection of the public interest.

### III.

#### REGULATION OF RATES AND RATE-MAKING

We now come to consideration of the question of what specific types of State regulation are necessary, under Section 2(b) of Public Law 15, to make the Sherman Act inapplicable (except as to boycott, coercion and intimidation). We begin with the subject of rates, and in order to limit the scope of the initial discussion, we deal in this report with rates for risks located in a single State.

We will discuss only the principles involved and will not attempt to set forth the detailed provisions for putting them into effect or provisions for the protection of insurers, such as the right to hearings and judicial review, which should be included in any State regulatory system.

It would seem that, generally speaking, the most practicable form of regulation of rates is that of statutory standards with supervisory powers in an administrative body or official. Under such a system, there are three features which we regard as of primary importance.

First, the State must establish standards by which the lawfulness of the rates may be measured; for example, that rates be reasonable, adequate and not unfairly discriminatory.

Second, the insurance commissioner should have power to investigate and determine whether the rates meet the statutory standards and to forbid their use if

they do not.<sup>1</sup> We do not mean to imply, however, that the commissioner must be given power, upon finding that a rate fails to meet the statutory standards, to name a rate which does meet them.

Third, the commissioner should have control not only of the rates but also, through his licensing power or otherwise, of the operation of bureaus establishing such rates.<sup>2</sup>

These three features we regard as fundamental in what will probably be the usual type of regulation. It does not follow, however, that each is essential in every situation or under all circumstances.

There are numerous other possible provisions, varying greatly as to their importance in a system of State regulation of rates. It is impossible to judge each feature independently and determine that it is or is not a necessary element of State regulation of rates. The weight to be attached to a particular feature may depend not only upon its own merits but upon the degree of regulation represented by other features and by the State's regulatory system as a whole.

In order to crystallize the comparison of different possible forms of State regulation, we think it may be helpful to consider several alternatives, representing in broad terms the possibilities that are most frequently considered as far as the basic method of control of the rates themselves is concerned:

1. A statute containing the three fundamental features mentioned above and, in addition, requiring that filings<sup>3</sup> be made with and approved by the commissioner before they may be used, subject to judicial review.

2. A statute containing the same provisions as in No. 1 above, except that filings become effective after a specified reasonable time unless during such time the commissioner disapproves them.

3. A statute containing the three fundamental features and requiring that filings be made with the commissioner, but permitting their use immediately upon such filing. If the commissioner should, after hearing, order discontinuance of the use of a filing, his order would be effective when issued or on any subsequent date named in the order, but would be subject to judicial review.

4. A statute containing the same provisions as in No. 3 above, except that filings be made only as required by the commissioner.

5. A statute setting standards for rates and imposing penalties for failure to observe them, but leaving the determination of whether the statute has been violated to be made by the courts in actions brought by the Attorney General or by private parties, and not providing for supervision by a commissioner or other administrative authority.

We believe that the methods referred to in paragraphs Nos. 1 and 2 represent a greater degree of control than is requisite to satisfy the requirements of Public Law 15.<sup>1</sup>

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<sup>1</sup> This presupposes that information be available and kept in such form as to permit the commissioner to reach an intelligent conclusion.

<sup>2</sup> See Note (5), p. 8, *supra*, in regard to the decision of the United States Supreme Court in *Georgia v. Pennsylvania Railroad Company*.

Control of a rating bureau would probably require filing with the commissioner its constitution, by-laws and rules, and such other information as he may call for, and include a statutory standard as to the nature of the constitution, by-laws and rules (e.g., that they must be fair and reasonable), with power in the commissioner to require their modification if he finds that they do not meet the statutory standard.

<sup>3</sup> Filings would include rate manuals, classification of risks, rating plans, rating schedules and other rating rules, and information concerning their application.

<sup>1</sup> The rating bill adopted in 1944 by Congress for regulation of fire insurance rates in the District of Columbia, passed before the enactment of Public Law 15, compels all insurers to be members of the one rating organization and provides for filing and prior approval. We do not believe that this imposes any compulsion on the States to adopt such provisions. Public Law 327, 58 Stat. 224.



Taking up the other extreme, we feel that it would not be safe to rely upon the method mentioned in paragraph No. 5 as a general pattern of State regulation.

It is difficult to select a particular method as representing the probable minimum degree of control which the courts would approve as a general pattern, but we believe that method No. 4, giving the commissioner power to require filings, would have a reasonable likelihood of being upheld as sufficient.

We feel, however, that in judging the regulatory system as a whole, a great deal of importance should be attached to the matter of filing, since filing places the commissioner in a better position to pass judgment on the rates and to exercise his powers of control. Even if a State should determine that a requirement of filing is not appropriate in all cases, it might be advisable for it to combine methods Nos. 3 and 4, by requiring filing with power in the commissioner to waive filings in certain classes, or requiring filing only in certain classes, with power in the commissioner to require filing in other classes.

Our belief as to the sufficiency under Public Law 15 of the suggested control to be given to a commissioner is intended to cover the general situation. Variations may be found necessary to meet special situations.

We discuss below other provisions which are advisable or necessary to protect acts and practices which may be desired in rating systems.

### *Rating Organizations:*

The following statutory provisions would be advisable in any legislation relating to rating organizations, if the specified activity is desired:

1. Authority to insurers to act in concert through a rating organization for rate making and related activities.
2. Authority to limit the membership to companies doing business on the same basis. Such a limitation of membership raises the question of the necessity of admitting subscribers because of a possible charge of boycott. The right of a bureau to refuse to sell its services to non-members might turn largely on the seriousness of the business disadvantage to non-members. If in fact the refusal constituted a serious restraint on the ability of non-members to compete, it would be safer to provide for their admission as subscribers, provided they meet specified conditions, and for appeal to the commissioner from a refusal to admit or an expulsion of a member or subscriber.
3. Authority to require members and subscribers to become such for all rates made by the bureau which the insurer is authorized to write. To guard against a charge that in some circumstances this would be an unreasonable restraint, provision for appeal to the commissioner should be included.
4. Authority to operate a stamping and audit bureau and to require all members and subscribers to submit daily reports for examination.

### *Rate Stabilization:*

In view of the provisions of Public Law 15 making the Sherman Act applicable to acts or agreements of boycott, coercion or intimidation, it will be safer as a general rule to have the State statutes require rate adherence rather than authorize the adoption by an organization of rules to accomplish this. Any compulsion is then that of the State, not that of the group.<sup>1</sup>

<sup>1</sup> The Supreme Court in *Parker v. Brown*, 317 U.S. 431 (1943), said,

"The State in adopting and enforcing the prorate program made no contract or agreement and entered into no conspiracy in restraint of trade or to establish monopoly but, as sovereign, imposed the restraint as an act of government which the Sherman Act did not undertake to prohibit." (p. 352) (Italics supplied).

With such a statutory requirement, we believe a State could authorize enforcement in the first instance by the industry, so long as there was provision for review by the commissioner.<sup>1</sup>

If a State preferred to authorize a rating organization to adopt its own rules as to adherence to rates, we believe that provision for approval by the commissioner of the proposed rules and for deviations would go far to eliminate the danger of charges of boycott, coercion or intimidation.<sup>2</sup>

If there be a requirement of rate adherence, it would be advisable to provide for appeal to the commissioner from the action of a rating organization with respect to a rate manual, classification of risks, rating plan, rating schedule or other rating rule.

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<sup>1</sup> This follows the pattern of the Maloney Act, which requires the associations of security dealers to police their rules, subject to review by the Securities and Exchange Commission.

<sup>2</sup> The Maloney Act requires the associations to adopt their own rules for self-regulation, subject to review by the Securities and Exchange Commission. The Senate and House reports referred to the Act as "cooperative regulation". This is persuasive but not conclusive, since Congress may do what it has not authorized a State to do.

FIFTH REPORT OF SUBCOMMITTEE OF LAWYERS TO THE  
COMMITTEE ON LAWS OF THE NATIONAL BOARD OF  
FIRE UNDERWRITERS PURSUANT TO RESOLUTION  
ADOPTED AT MAY 9, 1945, MEETING OF THE  
COMMITTEE ON LAWS

In our Fourth Report, we discussed the interpretation of Section 2(b) of Public Law 15 and the types of State regulation necessary under that Law to make the Sherman Act inapplicable to joint activities as to rates for risks located in a single State.

In this report, we continue that discussion to cover rates as to properties located in more than one State and properties which are transported from one State to another. We also discuss types of State regulation necessary or advisable to make the Sherman Act inapplicable to other activities and practices in the fire insurance business referred to in our Third Report.

As in the Fourth Report, we deal only with principles involved, not with detailed provisions for putting them into effect. The following discussion presupposes that rating bureaus dealing with risks located within a single State are subject to regulation in accordance with the principles set forth in the Fourth Report.

*Coverage in more than one State:*

We begin with joint rate-making where a single coverage extends to properties located in more than one State. A central organization which performs rating functions as to such risks may be a rating organization and if so, can bring itself under the necessary State regulation by qualifying under the statutes regulating rating bureaus in each of the States involved. If this course is followed, no additional legislation would seem necessary so long as the State statutes establishing regulation of rating bureaus are so drawn as to permit the qualification of such a multiple State organization.

A central organization may, however, take some part in or assist in rate-making, but not be a rating bureau within the meaning of a State rating statute and thus not be regulated under that statute. A policy decision may play as important a part in rate-making as the actual making of the rate itself.

The roles played in rate-making by such organizations will vary greatly. The activities of some will represent such a minor participation in the rate-making process as to make regulation unnecessary, while the activities of others will require the protection of regulation.

We believe that where the activities of a central organization which does not qualify as a rating bureau are nevertheless such as to require the protection of regulation, it can be provided by a State statute authorizing review by the commissioner of the rating activities of any organization which participate in establishing rates in his State, with power to issue cease and desist orders as to any such activity, insofar as it affects his State, if he finds it to be contrary to the public interest.

In many cases, such an organization will operate from a central office, and thus not be directly subject to the jurisdiction of commissioners of other States. This raises the question of whether in those cases where the participation of the central organization in rate-making is such as to require regulation, the commissioner can effectively supervise the central organization by means of his control over local rating bureaus and insurers doing business in his State, or whether that organization must affirmatively subject itself to the jurisdiction of each commissioner by obtaining a license or otherwise. We believe that where the central organization plays a major part in the rate-making, it would be safer to have that organization affirmatively subjected to the jurisdiction of each commissioner.



The discussion so far has dealt only with organizations which participate in rate-making where a single coverage extends to properties located in more than one State. The principles set forth are equally applicable to an organization (operating in one or several States) which, while not qualifying as a rating bureau, does participate in making rates as to properties located within a single State, or as to properties located in several States but not under one coverage as in the case discussed above.

### *Property in transit:*

The next question is regulation of rate-making as to property being transported from one State to another. Regulation by more than one State would be in most cases impracticable, and we believe that regulation by one State would probably be held sufficient to meet the requirements of Public Law 15.

Where the property is customarily located in one State and its interstate movement is only incidental, that State would normally be the one which would regulate the rate-making. Where the property has no customary location, regulation might be undertaken by the State where the property happened to be at the time the policy is written, or by the State where the assured has his principle place of business, or in some instances by the State in which the policy is written.

### *Activities other than rating:*

We now turn to other joint activities and practices as to policies and forms, pools and syndicates, reinsurance, agency balance rules, and adjustment of losses.<sup>1</sup>

The organizations through which these activities and practices are carried on may be limited to a single State or may function in several States, but in either case the activities and practices can be considered as carried on in each State as a unit. Each State is therefore interested in those activities and practices as they affect the business in that State.

We indicated in our Third Report that certain of these activities and practices can be carried on to some extent at least without State regulation. We concluded that some of these activities would involve no restraint if carried on within the limits suggested, and that others, while involving some restraint, might be justifiable as not unreasonable. However, as we have pointed out repeatedly in our earlier reports, under the Sherman Act no precise line can be drawn between legal and illegal activities, and no definite tests can be laid down as to the reasonableness of restraints. This means that without regulation such as to make the Sherman Act inapplicable, even with constant vigilance to guard against overstepping the permissible limits or against restraints becoming unreasonable, there would be no assurance that the courts would hold that the activities in the particular case are permissible or reasonable. Proceedings under the Sherman Act, by the Government or by individuals, involve expense and disruption of the business regardless of the outcome.

Public Law 15 provides a means by which, if deemed desirable, the Sherman Act can be made inapplicable to these activities and practices (except where boycott, coercion or intimidation is involved), thus not only resolving many of the uncertainties as to the permissible limits and as to the reasonableness of restraints, but also permitting activities and practices which in the absence of regulation would be forbidden.

We believe that such regulation could be provided in most cases by broadening the provisions of the statute suggested above for organizations which take part in establishing rates but do not qualify as rating bureaus, to include organizations which formulate rules or establish standards. This statute would afford protection if such rules or standards caused restraints as to policies and forms, reinsur-

<sup>1</sup> This Report does not cover control of commissions or limitation on appointment of local agents.

ance, agency balances or loss adjustment. In case similar protection is desired for pools or syndicates, the statute could be enlarged to cover their operations. The statute would give the commissioner power to review the rules and practices of such an organization, and issue a cease and desist order insofar as they affect his State where he finds them not in the public interest or unreasonably burdensome.

In the absence of further instructions, we will consider that this Report completes our duties under the Resolution adopted at the May 9, 1945 meeting of the Committee on Laws.

## APPENDIX "I"

REPORT OF THE SPECIAL SUBCOMMITTEE OF THE NATIONAL  
ASSOCIATION OF INSURANCE COMMISSIONERS RE  
UNDERWRITING PROFIT OR LOSS AND THE  
COMMISSIONERS' 1921 STANDARD  
PROFIT FORMULA

ROBERT E. DINEEN, New York, *Chairman*  
W. ELLERY ALLYN, Connecticut  
C. F. J. HARRINGTON, Massachusetts

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## NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

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November 22, 1946

Hon. J. Austin Carroll  
Chairman, Fire and Marine Committee  
National Association of Insurance Commissioners  
State House  
Providence, R. I.

My dear Chairman Carroll:

As chairman of the special subcommittee of the Fire and Marine Committee appointed to study the determination of underwriting profit or loss and the Commissioners' 1921 formula on profit, I enclose the report of the subcommittee dated November 22, 1946.

Copies of this report are being sent to all members of your Committee and to all other members of the National Association of Insurance Commissioners; they are likewise being released to the industry and the public.

Sincerely yours,

ROBERT E. DINEEN  
*Chairman, Special Sub-Committee*



## REPORT OF SPECIAL SUBCOMMITTEE OF THE COMMITTEE ON FIRE AND MARINE INSURANCE

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The subcommittee has held three meetings at which it has considered the problem which results from the lack of agreement between the All-Industry Conference Committee and the National Association of Insurance Commissioners as to the proper standard for profit in the making of insurance rates. This is the single portion of the All-Industry — Commissioners Rate Regulatory Bills in which a conflict of opinions between the All-Industry Committee and the Committee on Rates and Rating Organizations was not resolved, and both the Casualty and Surety Rate Regulatory Bill and the Fire, Marine and Inland Marine Rate Regulatory Bill, in the drafts approved at the Portland meeting of the National Association of Insurance Commissioners, June, 1946, contained a footnote to Section 3 — Making of Rates, reading as follows:

“The All-Industry Conference Committee believes the word ‘underwriting’ should precede the word ‘profit’. The National Association of Insurance Commissioners is giving further study to this matter.”

The footnote as quoted applies to the following portions of the respective bills at the point indicated by the asterisk(\*).

### *Casualty and Surety Rate Regulatory Bill — Section (3)*

“(a) All rates shall be made in accordance with the following provisions:

“1. Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for \*profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state.”

### *Fire, Marine and Inland Marine Rate Regulatory Bill — Section (3)*

“(a) Rates shall be made in accordance with the following provisions:

“3. Due consideration shall be given to past and prospective loss experience within and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for \*profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state; and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.”

The primary point at issue is the propriety of including all or part of the investment earnings of an insurance company in the profit factor allowed in the making of rates. The All-Industry Conference Committee, it appears, would restrict the element of profit in ratemaking to that derived from insurance underwriting operations, while the Commissioners preferred to re-examine the entire problem. Considerable research has been undertaken at the direction of this subcommittee, to aid it in its consideration of the problem.

The profits of an insurance company are derived from two sources: (1) From insurance or “underwriting” transactions, and (2) from the investment of capital

funds and moneys accumulated as a part of the insurance operations.<sup>1</sup> The contention of the industry that only "underwriting profit" be considered in the making and regulating of rates has required a careful study of the method of determining underwriting profit. Such a study is also required if "profit" alone is to be established as the standard, for "profit" necessarily would include profit from underwriting.

*Actions by the National Association of Insurance Commissioners*

The "Convention" form annual statement blank adopted by the National Association of Insurance Commissioners has long contained an Underwriting and Investment Exhibit which provides a method of calculating underwriting profit or loss. This exhibit, simply described, calls for the deduction of incurred losses and incurred expenses from earned premiums, the remainder being the underwriting profit, or, if there is a deficit, the underwriting loss. This method has been staunchly defended by the fire insurance industry throughout the history of rate regulation. It was given authority by the National Convention of Insurance Commissioners in December, 1921, when the Convention by a roll-call vote of 18 to 2 adopted a majority report of the Committee on Fire Insurance which set forth "what constitutes a reasonable underwriting profit and a proper and uniform method of arriving at same."<sup>2</sup> The principles set forth in that report follow:

"1. Underwriting profit (or loss) is arrived at by deducting from earned premiums, all incurred losses and incurred expenses.

"2. No part of the so-called banking profit (or loss) should be considered in arriving at the underwriting profit (or loss).

"3. Five years is the minimum period over which a dependable experience can be established.

"4. A conflagration is any loss in excess of a million dollars.

"5. The first million dollars of loss is chargeable to the State in which it originates, the balance being pro rated to all the States (including the one in which it originates), in proportion to the premium income of each State.

"6. A reasonable underwriting profit is 5 per cent. plus 3 per cent. for conflagrations. The 3 per cent. allowance for conflagrations is subject to revision if and when the records of conflagrations to be collected by the National Board show that such 3 per cent. is excessive or inadequate."

The majority report stated that the committee had met in frequent and lengthy conferences for the preceding two years with a committee of the National Board of Fire Underwriters, and that the principles set forth were agreed to by the committees at a final joint meeting. The fact that these principles constituted a voluntary agreement between the regulators and the regulated was emphasized in the concluding paragraphs of the report, reading in part as follows:

"This committee should not close its report without a reference to the fine spirit with which the companies have entered into the discussion and settlement of the many perplexing questions involved.

"We are of the opinion that the voluntary agreement herein effected is equitable both to the insurance companies and to the buyers of fire insurance \* \* \* this new voluntary agreement for a limitation of profits on their underwriting operations, in our judgment established the system on a sound and defensible basis \* \* \*"<sup>3</sup>

<sup>1</sup> See Best's Insurance Reports — Fire and Marine, (1946), page VI.

<sup>2</sup> Proceedings of the National Convention of Insurance Commissioners, 1922, page 20.

<sup>3</sup> Ibid., page 21.

A minority report was presented at the same time by Commissioner Bruce T. Bullion of Arkansas, differing with the majority on practically every feature, and recommending, in brief, that the rule for calculating underwriting profit or loss be "the difference between net premiums received and actual paid losses plus actual paid expenses."<sup>4</sup>

The 1921 formula was attacked in a lengthy paper and resolution presented by Superintendent Ben C. Hyde of Missouri to the National Convention of Insurance Commissioners meeting at Minneapolis in August, 1923.<sup>5</sup> The resolution asked that the 1921 action be rescinded and the matter referred to the Committee on Fire Insurance for further study. That committee considered Superintendent Hyde's views in the course of the meeting, and on the next day submitted a majority report to the effect that Superintendent Hyde should submit his views to the individual members of the Convention, and that the matter should be considered at the December meeting. A minority report, signed by Superintendent Hyde and Commissioner Bullion, asked instead for immediate action. The minority report was supported during this discussion by Commissioner J. J. McMahan of South Carolina, who, after identifying himself as one of the two who had voted against the 1921 formula in order that he might become better informed on the subject, said:

"I feel now that I voted more wisely than I knew \* \* \* because \* \* \* since then, to my utter astonishment, I have been told by one, or more members, of that majority that he joined in the recommendation without due consideration and thereafter felt ashamed of himself when he read the record and saw what he had subscribed to. Upon inquiry of others, he was told by one or more of them that they had not duly considered all the matters involved and really could not fully justify the action taken.

"I then didn't know much of the merits, but upon the discussion yesterday I felt clear for the first time that the convention had laid down an erroneous rule \* \* \*."<sup>6</sup>

Further support to this position was given by Commissioner G. Waldon Smith of Maine, who described the 1921 resolution as "absolutely indefensible."<sup>7</sup>

After much discussion, the minority report was tabled by a roll call vote of 27 to 5, and the majority report was adopted.

One of those who spoke for the majority point of view was Superintendent F. R. Stoddard, Jr., of New York. The following are extracts from his remarks:

"I don't claim that the rule reached by the Convention is perfect. I don't know that anybody does claim that it is perfect. The utmost that is claimed for it is that it was the best that could have been worked out at the time. \* \* \* I sympathize with my friend, Ben Hyde, but \* \* \*. I want to make up my mind definitely as to this question so that we won't have to change again what we do here today. \* \* \* So far as repealing, rescinding is concerned, are we prepared to publish to the world that our men, supposedly as able supervisors as can be found, that this organization made such a wretched mistake, and are we prepared to toss it overboard and acknowledge to the world that with two in the minority this Convention didn't know what it was doing, that the resolution passed by us was so flagrantly wrong that we are going to spurn it? \* \* \* Three months isn't going to do any harm (;) leaving this until December isn't going to hurt anybody. The question is whether we are going to repudiate what this Convention did and stigmatize the men who passed that resolution. \* \* \* As I said, I don't think it is perfect. The

<sup>4</sup> Ibid., page 22.

<sup>5</sup> "Proceedings," 1923, page 115, et seq.

<sup>6</sup> Ibid., page 151.

<sup>7</sup> Ibid., page 152.



purpose of that (majority) resolution is \* \* \* to give an opportunity \* \* \* to have Mr. Hyde's views presented to us \* \* \* when we meet in convention in December we will then have the facts before us and each one of us will be prepared to vote for a result that won't have to be changed because of any hasty action."<sup>8</sup>

At the December, 1923, meeting the Fire Insurance Committee reported<sup>9</sup> that it had defeated the Hyde resolution by a vote of eight to two, and after deliberation had appointed a subcommittee of three to investigate the 3% allowance for conflagrations and a subcommittee of five to "look into the matter at length and whether there were any other weaknesses in the formula." A minority report, signed by Messrs. Bullion and Hyde concurred in the appointment of the subcommittee of five, but asked that the 1921 resolution be rescinded at once. The minority report was rejected by a roll call vote of 26 to 5, and the majority report adopted.

At the December, 1928, meeting of the National Association of Insurance Commissioners in New York City, the Committee on Fire Insurance asked to be discharged from further consideration of underwriting profit. In putting the motion, Superintendent James A. Beha, New York, who was acting as chairman of the meeting, said: "You are adopting something that has been discussed for a long time, this underwriting profits and fire insurance. I don't think it has ever been settled."<sup>10</sup> The motion carried, and no further action on this subject has been taken by the National Association of Insurance Commissioners.

### *Legal Authorities*

Commissioner Bullion, at the time of the 1921 resolution, was engaged in litigation with the fire insurance companies as to the propriety of a fire insurance rate reduction order which he had issued on May 13, 1920. The opinion of the court was handed down January 30, 1922, *Bullion v. Aetna Insurance Company*, 151 Ark. 519, 523, 237 S.W. 716, in what is described as the first insurance rate case.<sup>11</sup> The majority opinion states "We think the undisputed evidence shows that the term 'underwriting profit' has long had a definite, certain and well-known meaning in insurance circles \* \* \* underwriting profit is arrived at by deducting from earned premiums all incurred losses and incurred expenses." In reaching this conclusion the court relied upon the 1921 action of the National Convention of Insurance Commissioners and upon the fact that the underwriting exhibit constructed upon this basis had been in use in Arkansas for more than ten years. The court also made clear that in so holding it was construing the language of the particular Arkansas statute from which the Commissioner derived his rate regulatory powers and upon the accepted canon of construction that "where a word which has a known legal meaning is used in a statute, it must be assumed that the term is used in its legal sense in the absence of an indication of a contrary intent." 26 *A. & E. Enc. of Law (2nd Edition)* 607. From this it may fairly be assumed that the approval of the earned premium less losses and expenses incurred formula was based upon a legal construction of a particular statute relying, in turn, upon actions of the National Convention of Insurance Commissioners, and was not based upon an original consideration of the fundamental merit of the formula.

In the same month that the *Bullion v. Aetna* decision was rendered (January, 1922) Superintendent of Insurance Ben C. Hyde of Missouri issued the fire insurance rate reduction order which, after much litigation in the state courts of Missouri, the Federal District Court and the U. S. Supreme Court, led to the impounding of millions of dollars of excess premiums and, eventually, to a

<sup>8</sup> *Ibid.*, page 152, et seq.

<sup>9</sup> "Proceedings," 1924, page 46, et seq.

<sup>10</sup> "Proceedings," 1929, page 20.

<sup>11</sup> Reply Brief of Respondent Fire Insurance Companies, page 7, Commissioner of Virginia ex rel Aetna Insurance Co., before the State Corporation Commission, 1929.

bribery scandal of far-reaching effects. The litigation is cited here, because it led the Supreme Court of Missouri to consider the methods of determining underwriting profit. In a lengthy and studied opinion, the court, using vigorous language, approved the method contended for by Superintendent Hyde, by which losses and expenses paid are subtracted from premiums actually received. *Aetna Insurance Co. v. Hyde*, 315 Mo. 113, 285, S. W. 65 (1926). A writ of certiorari was granted by the U. S. Supreme Court, but after hearing the writ was dismissed on the ground that no federal question was presented. 275 U. S. 440, 72 L. Ed. 357 (1928).

During the pendency of this litigation, the stock fire insurance companies sought to enjoin enforcement of the Superintendent's rate reduction order through an action brought in the Federal District Court. This court also upheld the premiums received less losses and expenses paid basis. *Aetna Insurance Co. v. Hyde*, 34 F. (2d) 185 (D.C. Mo. 1929). On appeal, the U. S. Supreme Court considered only procedural questions. *National Fire Insurance Co. v. Thompson*, 281 U. S. 331, 74 L. Ed. 881 (1930).

The earned-incurred formula was also held to be erroneous in a Kansas rate action. *Aetna Insurance Co. v. Travis*, 124 Kan. 350, 259 Pac. 1068 (1927), but the opinion of the Kansas Supreme Court reveals a misconception of insurance accounting principles so great as to invalidate any authority that it might otherwise have had. For example:

"Plaintiffs contend that in determining underwriting profits *earned* premiums only, less *incurred* losses and expenses, should be considered. This contention is erroneous as to both items.

"Incurred losses and expenses are losses and expenses as originally claimed, and average from year to year from 10 per cent to 12½ per cent more than losses and expenses actually paid. In determining the profits of any business there can be no reason for computing the outgo greater than it actually is. This error alone goes far toward requiring a reversal in this case."

The definition of incurred losses and expenses will be considered later in this report, but that given by the Court is wholly erroneous.

A wealth of reasoning and argument as to rate regulation is to be found in the briefs, opinions and orders in the Virginia State Corporation Commission Fire Insurance Rate Case, which resulted from an order entered June 18, 1928, by the Commission withholding its approval of rates, etc., filed by the Virginia Inspection and Rating Bureau. The Commission eventually was upheld by the Supreme Court of Appeals. *Aetna Insurance Co. v. Commonwealth*, 169 S.E. 859 (Va. 1933). In this litigation, the Commission found it necessary to modify the earned-incurred formula in a manner which is clearly described by counsel for the stock fire insurance companies as follows:<sup>12</sup>

"The National Convention of Insurance Commissioners, a body composed of state officials having charge of the regulation and control of insurance companies, adopted in 1921 as a result of years of consideration, a report of its Fire Insurance Committee as to the method for determining a reasonable underwriting profit for fire insurance companies. \* \* \* The 'Earned and Incurred' method was approved by the Convention and a formula adopted for determining underwriting profit, and Section 1 of the formula — which is the only section with which we are concerned at present — is as follows:

"'1. Underwriting profit (or loss) is arrived at by deducting from earned premiums all incurred losses and incurred expenses.'

<sup>12</sup> Brief for the Appellants, Supreme Court of Appeals of Virginia, *Aetna Insurance Co. v. Commonwealth*, pages 121-24.

"This formula is known in the insurance world as the Standard Profit Formula and is in general use by the companies, and it is the contention of the appellants that it is the proper formula for ascertaining underwriting profit, or profits from rates charged under the Virginia statute.

"It will be seen that under this formula three factors enter into the calculation of underwriting profit, viz: earned premiums, incurred losses and incurred expenses, and, therefore, in turn the definitions of these three terms must be considered, and the formula for ascertaining each of them followed in applying the formula for ascertaining underwriting profit. To the terms 'incurred losses' and 'incurred expenses' we will devote no discussion, because Commissioner Epes in the formula adopted by him for determining profits from the premium income only has incorporated losses and expenses, which are substantially the technical 'incurred losses' and 'incurred expenses' of the companies. But the factor in the formula, which he has radically changed, is the factor of 'earned premiums'. The companies' formula for ascertaining earned premiums for any year (and the formula could of course be made applicable to any period by substituting the word 'period' for the word 'year') is as follows \* \* \*:

"'Earned Premiums — From the amount of gross premiums written on insurance contracts during the year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add Unearned Premiums on outstanding business at the end of the preceding year and deduct Unearned Premiums on outstanding business at the end of the year.'

"Therefore the convention profit formula — the Standard Profit Formula — used by the companies can be expressed as follows:

- "1. Net premiums written during the period.
- "2. Add aggregate unearned premiums at the beginning of the period.
- "3. Deduct aggregate unearned premiums at the end of the period.
- "4. Deduct losses incurred during the period.
- "5. Deduct expenses incurred during the period.

"But the corresponding formula adopted by Commissioner Epes is as follows \* \* \*:

- "1. Net premiums written during the period.
- "2. Add — Aggregate 'Liability on Unexpired Policies' at the beginning of the period.
- "3. Deduct — Aggregate 'Liability on Unexpired Policies' at the end of the period.
- "4. Deduct — Losses incurred by fires occurring during period.
- "5. Deduct — Expenses incurred during period.

"It is therefore seen that the radical change made by the State Corporation Commission in the formula is the substitution of 'Liability on Unexpired Policies' for 'Unearned Premiums' at both the beginning and the end of the period in order to arrive at the 'earned premiums,' from which the incurred losses and incurred expenses for the period are to be deducted to ascertain the resulting profit."

The Commission found that "Liability on Unexpired Policies" was only 55% of "Unearned Premiums." Because of the substantial growth of unearned premiums during the period under review, the substitution of the smaller figure at the beginning and end of the accounting term increased the Commission's estimate of profits during the test period by \$669,316.



In the recent District of Columbia rate case, *American Eagle v. Jordan*, decided U. S. District Court, D. of C., October 9, 1946, the merit of the earned-incurred formula was not at issue.

The cases here cited are the only legal authorities which deal with the soundness of the Commissioners' 1921 Formula. *Bullion v. Hyde* upheld the method because it provided the "known meaning" of the term "underwriting profit" in the business, based upon the 1921 action of the Commissioners and the underwriting exhibit in the Convention Statement. *Aetna v. Hyde* and *Aetna v. Travis* reject the Commissioners' formula. *Aetna v. Commonwealth* offers a substitute method. It is obvious that the legal authorities are in conflict and provide little guidance for judging the inherent worth of the earned-incurred formula.

### *Expert Authorities*

The Commissioners' 1921 formula for determining underwriting profit or loss is accepted in certain fire insurance texts as the proper method. Crobaugh, *Handbook of Insurance*, (1931), page 1328, says:

"In fire insurance, *underwriting profit or loss*, as the case may be, is the difference between earned premiums and losses incurred, plus expenses incurred." (Italics in original).

The method is often referred to as the statutory formula, and the resultant profit or loss figure as the statutory underwriting profit or loss, presumably because of the statutes or other legal authority supporting the convention statement blank, which contains the underwriting exhibit on the earned-incurred basis.

Such expert authorities, however, appear to be devoid of arguments in support of the earned-incurred formula, accepting it, in effect, as an established principle in insurance accounting.

The authorities which take issue with the earned-incurred formula, however, contain more comprehensive statements as to their reasoning.

The publications of Alfred M. Best Company, Inc., have long carried statements as to the necessity for correcting the statutory underwriting profit or loss figures reported by companies in order to arrive at the "true" profit. Alfred M. Best, in a pamphlet entitled "Facts and Fallacies Concerning the Analysis of Insurance Company Statements," published in 1938 said:<sup>13</sup>

"The insurance companies have no choice in preparing these figures; although they give an incomplete picture of underwriting results, they must be filed in this form.

"Two very important items must be considered in connection with the statutory underwriting profit or loss in order to arrive at the true result, which may be better or worse than the statutory figure indicates.

"The first of these is the increase or decrease in the equity in the unearned premiums \* \* \*. In periods when premium writings are increasing, the amount added to unearned premium liability, (based upon the entire premium, with no allowance for expenses of operation), frequently results in showing a statutory underwriting loss; but the increase of the equity in unearned premiums reduces the apparent loss, or turns it into a profit. On the other hand, when premium volume is decreasing, unearned premium liability also decreases, and this usually results in showing abnormally large statutory underwriting profits. To reach the true result, the decrease in the equity must be deducted from the statutory underwriting profit or added to the statutory underwriting loss, if one is shown.

<sup>13</sup> Page 33, et seq.

"The importance of this procedure may readily be demonstrated. Let us first consider the situation of a fire insurance company whose annual premium writings are rapidly increasing. In five years, premiums written increased from \$600,000 to \$7,700,000; unearned premiums increased from \$750,000 to \$8,400,000, and a statutory underwriting loss of \$3,000,000 was reported. On the basis of its ratio of losses incurred to premiums earned, (loaded 15% for a 'safety factor' as explained in Chapter III.), the increase in the equity in the unearned premiums exceeded the statutory underwriting loss by over \$250,000.

"In times of decreasing premium volume the distortion is quite as great. The premium writings of insurance companies decreased rapidly during the five years ending with 1933. One excellently managed fire company reported a statutory underwriting profit of \$5,000,000; but its equity in unearned premiums decreased \$3,800,000.

"Both illustrations serve to emphasize the importance of correcting the statutory underwriting results by taking into account the increase or decrease of equity in unearned premiums. The examples are actual, and all companies are affected similarly, in varying degrees."

The sample principle is stated in more detail in "Explanation of Statistical Exhibits," *Best's Insurance Reports, Fire and Marine*, (1946), page XII, et seq., quoted in part as follows:

"Underwriting Gain or Loss:

" 'Statutory Underwriting Profit or Loss' is taken from the annual statements except for adjustments to reflect uniform treatment of Federal income and excess profits taxes, and represents a comparison of losses and expenses incurred with premiums earned, adjusted with minor profit and loss items. This statutory figure does not completely disclose the underwriting results. We, therefore, also show our estimate of the gain or loss in the equity in unearned premiums. This equity exists because the laws require that the calculation of the unearned premium liability shall be based upon the full amount of the premiums on all policies in force, less reinsurance, without considering the expense of operation.

"The annual statements are prepared in accordance with the laws of the various states, hence the insurance companies should not be criticised because the statements do not reveal fully the results of the underwriting operations. This situation is due primarily to two items:

"Equity in Reserves:

"First, the fact that the law requires unearned premiums to be set up at a figure in excess of the amount which experience shows to be necessary in the practical operation of insurance companies. This correspondingly reduces apparent profit or increases the apparent loss from underwriting, except where the volume of business written is decreasing. These unearned premiums are calculated upon the entire amount of the premiums under all policies in force at the statement date, with no allowance for the necessary expense of operation. They represent the estimated aggregate amount which the insurance company would be obliged to tender to its policyholders as return premiums for the unexpired terms should it wish to cancel every policy in force. Since the premiums are sufficient to absorb both losses and expenses, it follows that every well-managed company has an equity in unearned premiums roughly equal to the percentage of the premiums written consumed by the expenses of operation. If such a company desires to re-insure its business and retire, another company may be found which will assume all the outstanding policy liability for a payment much smaller than the amount of the unearned premiums shown by the statement of the retiring company. This discount or commission is allowed by the company assuming the business because if it wrote, through its own agents, business on which

the premiums would equal the unearned premiums of the company taken over, it would pay to those agents and in other operating expenses practically the same percentage of the premiums written as it allows to the retiring company on its unearned premiums. Therefore, in attempting to arrive at the true underwriting results, the increase or decrease of this equity in the unearned premiums must be taken into account, and adjusted with the underwriting profit or loss shown by the annual statement \* \* \*."

A similar explanation is contained in "*The Spectator Insurance Year Book*," 1946, page XXII.

"The 'trade profit' (which is not shown in the underwriting exhibit of the different companies but is discussed in the comment on underwriting operations) has been included because it is felt that no true determination of the underwriting results of any company can be made on the statutory basis. The statutory requirements penalize the surplus of a company showing a sizable increase in premium writings, and conversely the surplus is favored where a reduction of premium writings occurs. In other words, a company increasing its premium volume substantially might show an underwriting loss because of the necessity of increasing the unearned premium reserve, and on the other hand, a company reducing its premium volume might show a sizable underwriting profit because of the releasing of unearned premium reserves."

The Hon. Clarence W. Hobbs, who before his death was Special Representative of the National Association of Insurance Commissioners in the National Council on Compensation Insurance, dealt with the subject in the chapter "State Supervision" which he contributed to *Casualty Insurance Principles* by G. F. Michelbacher, (1942). Referring to fire insurance rating laws he said:

"Some of these laws have led to a great deal of litigation in recent years \* \* \* the following questions have been raised \* \* \* and \* \* \* are by no means conclusively determined:

"1. Whether underwriting profit shall be determined by a comparison of premiums received and losses and expenses paid over the experience period, or by a comparison of premiums earned and losses and expenses incurred \* \* \*."

"It may be seen that, with so many important points to be settled, rate making and rate supervision are sciences still far from exact.

"The National Association of Insurance Commissioners has endeavored to fix a ratemaking formula for fire insurance involving the use of premiums earned and losses and expenses incurred, as the basis, with loading of 5 per cent. for underwriting profit, and an additional loading for the conflagration hazard. While this is the prevailing practice, it is not universally recognized."

"*Insurance, Its Theory and Practice in the United States*," by Albert H. Mowbray, (1946), presents a discussion of earned and unearned premiums and of investment aspects, beginning at page 418. In a footnote to this discussion Mowbray says, "It is also difficult to estimate what is the real underwriting profit or loss since the full unearned premium reserve is not required under normal conditions for the future loss and expense payments on existing policies."

Consideration of these quotations demonstrates that, although twenty-five years have elapsed since the Commissioners' 1921 formula was adopted, expert authorities are either unpersuaded as to its accuracy or state unqualifiedly that it does not produce the true answer. The legal and expert authorities appear to afford far greater support to points of view opposed to the 1921 formula than to those which favor it.



### *Analysis of Principles*

After consideration of these diverse opinions, this subcommittee deemed it essential to study afresh the basic principles involved, to approach *de novo* the entire problem of a standard for the determination of underwriting profit.

The authorities cited and the Commissioners' 1921 formula deal with the problem of determining underwriting profit for a past period of time. It is necessary to distinguish this problem from that presented by the pertinent subdivisions of the "Making of Rates" sections of the All-Industry — Commissioners' Bills. The A.I.C. Bills require due consideration of past and prospective loss experience, past and prospective expenses, to a margin for (underwriting) profit and contingencies, to policyholder dividends and all other relevant factors within and outside the state. To the extent that the loss and expense factors used in rate making involve estimates of prospective experience, they are of course, approximate, and after these factors are determined, it would be mathematically simple to add a reasonable percentage for profit and contingencies. In other words, if the loss, expense, dividend and other relevant factors of a rate are calculated, all that is needed to fix the final rate is addition of the profit factor. No attempt has been made by this subcommittee to explore the statistical or actuarial methods by which prospective experience may be calculated. It has, however, endeavored to study the means by which the true underwriting profit of companies may be determined for past periods of time. It is pertinent to note the additional language in Section 3(a), subdivision 3 of the Fire, Marine and Inland Marine Rate Regulatory Bill: "and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available." A determination of fire insurance experience is therefore expressly required, and the value of an accurate determination will be equally great in other lines both for the ascertainment of past and estimation of prospective experience.

A part of the subcommittee's research was devoted to a study of commercial accounting authorities on profit, which in general business, is customarily termed "net income."

Robert H. Montgomery, a leading authority on accounting says:<sup>14</sup> "If a public accountant were asked to define the term 'net income', he would probably reply: 'The net income of a business is the remainder of the earnings and profits from all sources after providing for all costs, expenses and allowances for accrued or probable losses.'"

Rules laid down by this commercial accounting authority as to the determination of net income are to be found in the same text, where in part he says:<sup>15</sup>

"Good Accounting Practice Relating to the Statement of Income. — A reliable statement of income must be predicated on accounts which reflect good accounting practice if such statement is to present fairly the results of operations of a concern for a specified period.

"When expenses are incurred and benefits are received in a given accounting period, good accounting practice requires that the resulting liabilities be set up in the same period — as actual liabilities if the amounts have been determined definitely, or in the form of estimated accruals or provisions if the exact amounts of the liabilities are not then known. When items of income arise or are collected in one period, and part thereof belongs to another period, good accounting practice requires that accrued or deferred accounts be set up so that the first period may not benefit by the inclusion of unrealized or unearned income.

<sup>14</sup> "Auditing Theory and Practice," Robert H. Montgomery, Sixth Edition (1940), page 421.

<sup>15</sup> *Ibid.*, page 407.

"Good accounting practice requires that current income be reduced by provisions for losses or expenses which are probable, even though not yet actually incurred. When losses or expenses are mere possibilities, the facts can usually be displayed as a footnote to the financial statements. When it becomes apparent that the loss or incurrence of expense is probable, the situation should be reflected in the accounts. Experienced judgment is required for determination of the appropriate treatment in borderline cases."

Applying these quotations to the determination of underwriting profit or loss the items of income to be considered would be those from premiums (excluding investment items for this portion of this discussion), and the deductions therefrom would be for losses and expenses, although the word "loss" must of course, be given the insurance rather than the commercial meaning intended by Mr. Montgomery.

This approach, therefore, suggests that the problem of determining underwriting profit or loss for a specified past period of time requires determination of the premiums, losses and expenses which are applicable to that period of time. These factors will be considered in that order.

### *Premiums*

Only two methods of establishing premiums in the computation of underwriting profit or loss are to be found in the authorities — premiums received (often termed "premiums written") and premiums earned. These terms are well understood in the business. Satisfactory short definitions are found in Best's Insurance Reports, Fire and Marine,<sup>16</sup> which, modified by substituting the word "period" for "year" may be restated as follows:

Net premiums written represents the aggregate net amount of the premiums upon all policies issued during the period, whether collected or not, and after deducting all return and reinsurance premiums.

Net premiums earned represents the adjustment of the net premiums written with the increase or decrease during the period of the liability of the company for unearned premiums.

The word "net," of course, refers to the deduction for gross premiums written of all return and reinsurance premiums. Since both return premiums and reinsurance premiums ceded are direct diminutions of income, the propriety of "net" premiums as the basis for discussion seems obvious.

The terms are also defined in the Commissioners' 1921 formula<sup>17</sup> in the same sense, except that the manner of calculating earned premiums is more exactly stated as:

"From the amount of gross premiums written on insurance contracts during the year deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding year and deduct unearned premiums on outstanding business at the end of the year."

A textbook explanation of earned premiums is found in Mowbray:<sup>18</sup>

"Premiums Not Earned until Service Performed. — Premiums paid in advance, though legally the property of the company, have not been earned, for no service has been rendered \* \* \*.

"It is then, fair to say of that part of the premium designed to pay current losses that it is earned pro rata as the term of the policy passes, and that the

<sup>16</sup> 1946 Edition, page XII.

<sup>17</sup> "Proceedings," 1922, page 21.

<sup>18</sup> Mowbray, op. cit. page 418, et seq.

part corresponding to the unexpired portion of the current term, and all amounts charged in anticipation of losses to occur after the expiration of the current term, are unearned."

As this quotation implies, the protection which an insurance policy affords is rendered continuously over the term of the contract. The insurer earns the premium day by day as it provides the protection. The company must establish a liability for the aggregate portions of all net premiums received for which it must render insurance in the future, and which, therefore, are unearned premiums.

The unearned premium concept has a parallel in commercial accounting, as indicated in the following quotation from Montgomery:<sup>19</sup>

"When items of income arise or are collected in one period, and part thereof belongs to another period, good accounting practice requires that accrued or deferred accounts be set up so that the first period may not benefit by the inclusion of unrealized or unearned income."

This reasoning directly supports the earned premium basis of allocating income to the period for which underwriting profit or loss is to be determined. The incidence of premiums written, under this theory, has no relation to the amount of insurance protection rendered in a specified period. The directly relevant factor is premiums earned, which are measured by that part of aggregate premiums on contracts written before and during the period which is applicable to protection rendered during the period. The formula — premiums written plus unearned premiums at the beginning of the period and less unearned premiums at the end of period — is a simple statement of the method of determining earned premiums.

The Virginia Corporation Commission case cited earlier is the only source which adopts a different earned premium formula. As stated in the reference above, the Commission substituted "Liability on Unexpired Policies" for "Unearned Premiums" in the formula. While the Commission's argument is exhaustive, it may be generalized as based on the premise that policies in force may be carried to expiration or reinsured in another carrier for not over 55% of the actual pro rata unearned portion of the premiums on such policies. This assumes a profit factor, a loss factor to expiration, and a low expense factor because acquisition costs have been expended at inception of the policies. It must be considered whether this confuses the problem of determining the premium income which is applicable to a specified period of time, since the profit factor relates to profit to be earned in a future period, and the problem is to calculate profits in a past period. On the same basis, factors of future loss and expense have no place in the determination of income for a past period. The reasoning in this case is akin to the "equity in unearned premiums" theory of Best,<sup>20</sup> except that Best applies the correction directly to "statutory underwriting profit," rather than to the computation of earned premiums.

*Aetna v. Hyde* and *Aetna v. Travis*, cited above, substitute "premiums received" for "premiums earned." These decisions appear to be opposed to the weight of authority, which holds, in effect, that income applicable to a specified period of time should not be measured by the accident of when the income was received, but rather by whether the service purchased was performed in that period. In any such length of time for which underwriting profit is to be established, insurance companies furnish coverage for which premiums were "received" in a prior year or years, and receive premiums for insurance which must be rendered in the future, so that there is no direct relationship between the premiums received and the insurance coverage rendered.

A quotation from a recent paper by Ralph H. Blanchard, Professor of Insurance in the School of Business, Columbia University, defines earned premiums precisely, and in language which is appropriate to the approach here adopted:

<sup>19</sup> Montgomery, op. cit., page 407.

<sup>20</sup> Supra.



"The earned premium on a given policy contract is that part of the total premium for the policy which is applicable to a given period."<sup>21</sup>

This quotation, as well as the previous discussion, may be directly related to the theory that a sound underwriting profit or loss formula will be based on earned premiums as the measure of income applicable to a past period of time.

### *Losses*

Determination of the losses which are applicable to a specified past period of time requires, as in the discussion of premiums, consideration of two methods suggested in the authorities — losses paid and losses incurred. Professor Blanchard says:

"Incurred losses are the losses paid and to be paid on account of particular events."<sup>22</sup>

Therefore, using fire insurance as an example, a fire which occurs during the period of time for which experience is computed represents an "incurred" loss, whether or not the claim is actually paid in that period or later. Paid losses in any period will include those which occurred in prior periods.

The occurrence of a loss is, of course, fixed and definite in point of time; it can be allocated to a period of time with accuracy and can be related directly to the earned premiums on the insurance covering the loss. The payment of a loss, however, may be at almost any time after the event, as in third party liability claims, which are often litigated, and final settlement may be postponed for years. Substantial sums are frequently paid out long after liability policies have expired and all premiums to which the losses were related have been earned.

Referring once again to the Commissioners' 1921 formula, the method of calculating losses incurred is there stated as:

"To losses paid during the year, add salvage and reinsurance recoverable outstanding at the end of the preceding year, and deduct salvage and reinsurance recoverable outstanding at the end of the year. To the result so obtained add all unpaid losses outstanding at the end of the year and deduct unpaid losses outstanding at the end of the preceding year."<sup>23</sup>

The salvage and reinsurance items directly reduce losses, and may be disregarded for this discussion. The soundness of the formula may be tested by logic. Insurance companies always have claims in process of adjustment, and at each statement date must establish a liability for unpaid claims. For any specified period of time, if unpaid losses are exactly the same amount at the end of the period as at the beginning, losses incurred must have exactly equalled losses paid. However, if unpaid losses are greater at the end than at the beginning, then more losses must have been incurred than were paid, and the reverse is true.

Reserves for unpaid losses are necessarily estimated, and any inaccuracy in the estimates would produce a corresponding inaccuracy in losses incurred, except to the extent that errors at the beginning and end of the period might be offsetting. This fact, it may be argued, does not relate to the soundness of the formula, but simply indicates the necessity for care in applying it. There are well-developed methods of testing the accuracy of unpaid claim estimates.

The use of "losses paid" instead of "losses incurred" is supported by *Aetna v. Hyde* and *Aetna v. Travis*, but other authorities suggest that the use of "losses incurred" permits the establishment of a direct relationship with premiums earned in any specified period of time.

<sup>21</sup> "Survey of Accident and Health Insurance," Bureau memo. No. 62, Federal Security Agency, Social Security Administration, Bureau of Research and Statistics, August, 1946, pg. 1.

<sup>22</sup> *Ibid.*, page 1.

<sup>23</sup> "Proceedings" 1921, page 21.

*Expenses*

The Commissioners' 1921 formula defines the method of ascertaining expenses incurred as:

"To all expenses paid during the year add expenses unpaid at the end of the year and deduct expenses unpaid at the end of the preceding year."

The logic of this formula is the same as that underlying the computation of losses incurred, previously discussed.

The "expenses paid" method is contended for only in *Aetna v. Hyde* and *Aetna v. Travis*, in each case as a part of a "premiums received less losses and expenses paid" formula. It is not found in other authorities. Nearly all expenses in the insurance business can be paid with little delay, so that unpaid expenses are not large in proportion to paid expenses for any reasonable length of time. Therefore, there is little difference, ordinarily, between expenses incurred and expenses paid.

Nevertheless, the expense element in the calculation of underwriting profit or loss is, judging from a study of the legal and other authorities, the most troublesome of all. As was extensively argued in the Virginia case (*Aetna v. Commonwealth*), insurance companies incur a large part of their total expense on each policy at the time the policy is written, yet must at the same time establish a liability for the entire pro rata unearned portion of the premium. Expenses at inception of the policy may be as much as 35%, 40% or more of the total premium, and much more than the remainder will be set up as unearned. Since there are not enough dollars in the premium to do both, the difference is taken from surplus. The companies have contended that it is the balance of unearned premiums which is established out of surplus; presumably it might also be argued that unearned premiums are set up out of premiums, and that acquisition costs are met out of surplus.

This method of doing business, which is a matter of common knowledge in the insurance field, led the Virginia Corporation Commission to hold that unearned premiums include "a pro rata part of those items of the expense element which have been included in the premium for expenses already paid or incurred."<sup>24</sup> For this and other reasons, the Commission held that unearned premiums were an overstatement of the companies' "Liability on Unexpired Policies," and substituted the latter term therefor in calculating premiums earned, as previously discussed. The practical effect of this change was, through reducing unearned premiums by 45% at statement dates, to correspondingly increase earned premium for the period by 45% of the increase in unearned premiums. Since the Commission did not change materially losses or expenses incurred, the net result was an equal increase in underwriting profit for the period. As was discussed, a comparable correction is made by Best through calculating the increase or decrease in unearned premium equity, except that Best calculates the equity as a separate statistical problem, and applies it directly to the statutory underwriting profit or loss.

This subcommittee has considered the merits of both of these suggested methods of modifying the statutory profit formula in the light of the suggested approach that "determining underwriting profit or loss for a specified past period of time requires determination of the premiums, losses or expenses which are applicable to that period of time."<sup>25</sup> The corrective measures urged by Best and in the Virginia case both involve consideration of loss and profit elements in the unearned premium, or, in other words, losses which will be sustained and profits which will be realized in future periods of time. The premium and loss phases

<sup>24</sup> Order and Opinion, op. cit., page 58.

<sup>25</sup> Supra.

have already been discussed and this portion of the report is devoted to consideration of the suggested correction in treatment of expenses.

In opposition to the Commission's Order and Opinion in the Virginia case, the stock fire companies argued this phase of the problem at length, as indicated in the following quotations:<sup>26</sup>

"As to the holding that the Unearned Premium includes an element for expenses already paid or incurred, we respectfully submit that no such element can be carried for reimbursement out of the Unearned Premium. Certainly an expense already paid may not properly be suspended pending the termination of the liability on the contract. The Unearned Premium Reserve cannot be treated as containing any amount representing such expenses, certainly unless such expenses are accrued, or distributed, over the life of the policy. Obviously this would require these expense items to be capitalized and carried by the company as an asset in order to balance its books. \* \* \* But it is not permissible to carry in the company's statement as an asset an item of expense which has been paid and is not recoverable, and, of course, it is not the practice of the companies to do so. Such an item would not be treated as an 'admitted asset' by the authorities by any State for solvency purposes.

"Nor can a valid contention be made that, while it is not proper to accrue paid expenses for solvency purposes, yet it is proper to do so for rate making purposes. \* \* \*

"Until the legislature sees fit to change the solvency standard, profits for rate-making purposes must stand or fall as judged by that criterion.

"If a paid expense is not definitely recoverable, it has no place in the assets of any company. Assets representing paid unrecoverable expenses do not pay the the policyholder whose property has been destroyed by fire. \* \* \*

"There is no prepayment of expense in any just sense, but expenses are paid only for debts due and owing at the time when incurred and paid and are not debts relating to some other or future period but debts owing and payable for completed service or obligation during the period calculated.

"The testimony of Mr. Doscher (R. pp. 849-850, inclusive), illustrates very clearly that it is not practicable to distribute expenses paid over the life of the policy, that it is not practicable to have different financial set-ups for solvency and profit purposes and that no recognized form of accounting permits the setting up of an expense as an asset incurred or paid that is not recoverable.

"Q. Now, Mr. Doscher, it has been said in this case at various times and the question was raised with respect to the distribution of the expenses of companies over the life of the policy. Will you state whether or not, in your opinion as an accountant, that expense can be properly distributable over the life of the policy in a recognized and proper accounting method?

"A. Expenses that are paid and not recoverable, under good accounting practice and good general business practice, cannot be allocated over a given period. They are chargeable in the period when they are paid, or when they are incurred, because of the fact that they are not recoverable. Under existing regulations of the State of Virginia and also all the States of the United States, no insurance company is permitted to carry as an asset for the purpose of determining its solvency, an accrued expense, or a deferred charge, whatever you call it.

<sup>26</sup> Brief for the Appellants, *Aetna v. Commonwealth*, Supreme Court of Appeals of Virginia, page 150 et seq.



Those regulations specifically prohibit setting up any earnings of that nature by a company and including them as admissible assets. General business practice would preclude a company doing that. It would, no doubt, have a serious effect on the financial condition of the company. I know that, if I personally, were offered a policy of an insurance company that had a large sum of money set up as assets, representing expenses actually paid or incurred which were not recoverable, I would be inclined not to accept the policy, as the financial set-up would not be sound on that basis. \* \* \*

"Q. As an accountant, Mr. Doscher, do you know of any recognized or proper form of accounting, in which you can set up as an asset in your statement any expense which has actually been paid, or incurred, and which cannot be recovered?

"A. I do not know of any good, sound accounting practice or principle that would permit the setting up as an asset of an expense incurred or paid that is not recoverable."

"It is not sound to capitalize an expenditure which has been made and the money paid out, without right to recover, because it is in no sense an asset. All that can be said to exist is a contingently possible recoupment of it, not as of legal right, but by a custom in some cases, contrary to legal obligation. This custom, of course, relates solely to the agent's commission. The agent is in no case bound to reimburse any part of this expense, whatever the future contingencies may be. If he does so in excepted cases, he does so as a voluntary act and not because he is under legal obligation to do so. The unanswerable fact in these considerations is that it is violative of every conception of sound accountancy to treat as an asset a sum which may or may not be recoverable, which has been expended for a completed service which has been paid for and the recoupment of which is exceptional, contingent and not resting in legal right. While there is a possibility of recovery of a part of the agent's commission, in some cases, there is not even a possibility of recovery of any portion of other expenses which have been paid or incurred. \* \* \*

"There is a marked distinction between amortizing the discount in the sale price of a bond and spreading expenses which have been already paid or incurred over the term of a fire insurance policy. In the former case the bond has a definite period to run and it is a simple matter to pro rate the amount of the discount over the term of the bond, but a fire insurance policy being subject to cancellation at any time, there is no logical basis on which the spread of the expenses could be pro rated.

"In support of his claim that a large element of the 'Unearned Premium' represents expenses already paid or incurred, the Commissioner cites the testimony of three of 'the companies' own witnesses, Messrs. Doscher, Hess and Witt, extracts of which are given in Appendices 4, 5 and 6, respectively. We respectfully submit that this evidence does not substantiate this claim. This evidence was introduced for the purpose of showing, and does show, that approximately 40% of the amount carried in the 'Unearned Premium Reserve' at any time has been contributed from the paid in or accumulated surplus of the company. This is occasioned by the fact that the total written premium is not sufficient to pay, for the first year, losses and expenses incurred in connection with the acquisition and handling of the business properly chargeable against the premium and to put in the Reserve the unearned part of the premium required by law, making it necessary that the company provide the deficiency from some other source than the amount of the premiums received. Obviously, the only source from which it can come is the surplus and the testimony and exhibits therewith show that the result is that the amount so required to be taken from the surplus in order to meet the requirements of the reserve amount to approximately 40% of the Reserve."

This argument has certain major points, which may be summarized as follows:

(1) Unearned premiums by law must be established in full as a liability, and no consideration can be given to the expense element therein unless it is accrued as an asset and spread over the life of the policy.

(2) Such a procedure would be unsound because:

(a) The asset would be inadmissible in a statement of condition.

(b) A paid expense is not definitely recoverable, and to treat it as an asset is violative of sound accountancy.

(3) There is no real prepayment of expense, because all such expense is for debts owing and payable for completed service or obligation.

(4) There is no logical method on which the expenses could be pro rated over the term of the policy.

As to point (1), it is well understood, of course, that the establishment of unearned premiums is prescribed by law, and it follows that any correction for expense factors could, as stated, be accomplished only by accruing such items in an asset account.

Point (2a) is well taken, because such an asset would be inadmissible (see, for example, Section 71(2) New York Insurance Laws).

While it may be true as claimed in point (2b) that such paid expenses are not always recoverable, the question as to whether setting up such an asset is sound accountancy is dealt with in the text by Montgomery previously cited; on page 245, et seq., Montgomery says: "Prepaid expenses \* \* \* represent the residual amount of an expenditure \* \* \* made prior to the balance sheet date, with respect to which a portion should be charged to income in subsequent periods \* \* \*."

"It is a generally accepted principle of accounting that, where practicable, expenses and costs which are a charge against earnings of more than one period should be apportioned equitably to the specific periods which derive the benefit \* \* \*."

"From the standpoint of good accounting practice, there is no option as to how items should be charged when the benefits therefrom clearly aid or are reasonably expected to aid subsequent periods. If expenses are incurred in a single year, or during a few years, and if those expenses are incurred wholly for the purpose of increasing profits of future years, such expenditures are clearly in the nature of an investment and should be apportioned to income over the periods which are expected to benefit therefrom."

Montgomery also notes (page 260) that "Deferred Charges" accounts are required in Uniform Systems of Accounts for Telephone Companies prescribed by the Federal Communications Commission, and that prescribed by the Securities and Exchange Commission for Public Utility Holding Companies. Similar requirements by other authorities were found in additional Uniform Systems of Accounts examined as a part of the subcommittee's research.

This authority, obviously, is in conflict with the assertion in the Brief that such treatment is "violative of sound accountancy." Montgomery, in fact, holds that sound accountancy demand the accrual of prepaid expenses.

Studies by this subcommittee of accounting procedures which would reconcile the establishment of a prepaid expense account for underwriting exhibit purposes and yet disallow it as an asset for solvency purposes indicates that there are parallel techniques in use for other items. The treatment of unauthorized reinsurance in those states which disallow such reinsurance is an example. The underwriting exhibit is not affected by such disallowance, but the effect on surplus is handled by a separate entry through the "miscellaneous" or change in surplus exhibit. This could be done for prepaid expenses, if such a procedure were de-

cided upon, by setting up the account for underwriting exhibit purposes, charging it off as a non-admitted asset, and carrying the adjustment through the surplus exhibit. The net effect would be that surplus would be unchanged from present practice, but the correction for increase or decrease in prepaid expenses would be reflected from term to term in the underwriting exhibit.

On the assumption that the benefit from acquisition expense is received over the term of the policy, accrual of such expenses is required under the principle laid down by Montgomery. This is opposed to the argument in Point (3) that such expense is for completed services.

If this approach to the handling of the expense element is deemed of sufficient merit to justify further exploration, methods for accrual of such expenses would have to be evolved, and it would be necessary at that time to consider point (4), as to whether there is a logical method for pro-rating such expenses over the term of the policy.

The desirability of further study of all phases of the expense problem is demonstrated by reference to the original premise that the expense applicable to a specified past period of time must be determined and by the conflicting arguments set forth above. The expense incident to writing policies must, it appears, be charged either to the period of time in which the expense is incurred, i.e., in which the policy is written, or it must be spread over the term of the policy. This is, of course, exclusive of those general overhead expenses which normally are constant through policy terms. The only accounting method suggested in the authorities reviewed for spreading expense over the policy term is by accrual of prepaid items. In practical operation, the charging of expense to the period in which it is incurred as in the Commissioners' 1921 formula, results in greater expense charges, and therefore lower profit, when business is increasing and premiums are being written at a faster rate than they are being earned. The reverse is also true, and profits are thereby increased when premium volume is declining, as was demonstrated in the quotations from Best and Spectator.<sup>27</sup>

The importance of a correct method of handling any distortions due to rising and falling premium volume is illustrated by the following record of net fire insurance premiums written from 1920 to 1945, inclusive:<sup>28</sup>

<i>Year</i>	<i>Fire Premiums</i>
1945	\$663,000,000
1944	621,000,000
1943	583,000,000
1942	546,000,000
1941	508,000,000
1940	467,000,000
1939	448,000,000
1938	458,000,000
1937	473,000,000
1936	461,000,000
1935	473,000,000
1934	473,000,000
1933	453,000,000
1932	501,000,000
1931	567,000,000
1930	645,000,000

<sup>27</sup> *Supra*.

<sup>28</sup> Best's Insurance Reports — Fire and Marine, 1946, page VII.



1929	723,000,000
1928	700,000,000
1927	706,000,000
1926	732,000,000
1925	699,000,000
1924	652,000,000
1923	673,000,000
1922	595,000,000
1921	571,000,000
1920	685,000,000

The great up and down trends are clearly shown, and it will be observed that in 1920, 1923 and 1925-1929, inclusive, peaks were reached that exceed the 1945 figure.

### *Investment Profits*

At the beginning of this report it was stated that the primary point at issue is the propriety of including all or part of the investment earnings of an insurance company in the profit factor allowed in the making of rates. The foregoing discussion was considered essential to consideration of an underwriting profit formula; with this as a basis, consideration must also be given to the investment aspects.

The subject of investment profits was referred to in 1917 by Commissioner McMaster of South Carolina, who expressed doubt that investment operations of fire insurance companies were charged with their full share of expense.<sup>29</sup> In 1918, Commissioner Button implied that profits on the investment of unearned premiums should be considered.<sup>30</sup>

The Commissioners' 1921 formula provides that "No part of the so-called banking profit (or loss) should be considered in arriving at the underwriting profit (or loss)."

The resolution presented by Commissioner Hyde of Missouri in 1923,<sup>31</sup> which was defeated by the Convention took a dual position — that all activities of insurance companies must be considered in rate making, all earnings "charged" to profit, yet he added "It is preposterous that the policyholders should be charged rates to cover losses occasioned by extravagant methods or unsafe or speculative investment of funds."

In *Aetna v. Hyde*, previously discussed, the Supreme Court of Missouri, after extensive reasoning, but relying in the end on statutory language (Section 6281, R.S. 1919, Insurance Laws of Missouri) found that "interest on unearned premiums is an underwriting profit." However, in the concurrent Federal Court case, *Aetna v. Hyde*, 34 F (2d) 185 (D.C. Mo. 1929), this court held that interest on unearned premiums should not be included in calculating underwriting income.

In *Aetna v. Travis*, 124 Kan. 350, 259 Pac. 1068 (1927), the Supreme Court of Kansas debated whether investment earnings should be considered. The trial court had decided in the negative and the Supreme Court split equally, so that the point was left undetermined.

In the Virginia case, *Aetna v. Commonwealth*, 169 S.E. 859 (Va. 1933), the Supreme Court of Appeals upheld the findings of the Virginia Corporation Commission, which included a determination that "income from the investment of

<sup>29</sup> "Proceedings," 1917, page 291.

<sup>30</sup> "Proceedings," 1919, page 167.

<sup>31</sup> "Proceedings," 1923, page 115 et seq.

premium income which is being held to meet presently existing but future payable liabilities" is income produced by rates, and should be included in profits produced by rates. In its brief in this case, the companies argued, in part:

(1) The amount of unearned premiums is a bookkeeping figure; the corresponding assets are the property of the company, not of the policyholders.

(2) That such assets are not impressed with a trust in favor of the policyholders.

(3) Unearned premiums change each day and exist only as of given dates and not as of periods of time.

(4) Term policies allow a reduction in rates for prepayment of premiums.

Gephart, in "Principles of Insurance," Volume II, page 236, states in defining "trade profit," that it includes "interest earned during the year at the average rate received during the time on the unearned premium fund, first deducting from it the unpaid premiums."

The subject was considered in a paper "Financial Analysis of American Stock Fire Insurance Companies from 1926 to 1936 Inclusive" by Robert Baker Mitchell, 1939. Quoting from pages 26 and 27:

"Some analysts maintain that a share of investment income should be allocated to the underwriting end of the business. The argument for the inclusion of a share of investment income in underwriting income usually centers on the contribution to earnings of premiums collected in advance and of the investment of the Unearned Premium Reserve. Premiums are collected, on the average, for two years in advance, the period of time varying, becoming longer when business is better and shorter in times of business depression. It is argued that premiums earned are less per dollar of risk on long term policies because of the discount allowed the insured on such policies and that part of the income accruing from the investment of such premium should be treated as earned from underwriting. Therefore, these analysts include an arbitrary proportion of unearned premiums in underwriting income. The proportion is arbitrary because there is no inductive method of allocating such income. This is partly because there is apparently no way of determining accurately what proportion of cash on hand is held to take care of pending claims and what is held awaiting proper investment.

"Many analysts who include part of investment income in underwriting income assume as their base not only an arbitrary figure for investments but also an arbitrary interest figure. Even if a low rate of interest is used and does seem to produce conservative results, it is necessary also to consider the amount of investment losses which may have been incurred through write-downs or sales of securities. These losses are almost entirely ignored by those who include investment income in underwriting income. If part of the return from investments is to be credited to underwriting, then underwriting should also accept investment risks including losses which might have been incurred.

"While there may be some basis for believing that a portion of investment profit should go to underwriting profit, the difficulties of presenting anything more than an arbitrary apportionment makes the adjustment inadvisable."

For many years the publications of Alfred M. Best emphasized the necessity for crediting underwriting earnings with interest on reserves, but more recently has considered the adjustment to be of trifling importance, as indicated by the following excerpt from Best's Insurance Reports — Fire and Marine, 1946, page XIII:

"\* \* \* insurance institutions hold in their possession funds representing (a) the unearned portion of premiums paid at the beginning of the term for insurance running for a stipulated period, (b) loss claims in process of ad-

justment. Since the companies hold these funds solely because they transact an insurance business, and since such funds, in the main, do not represent contributions by the stockholder, but, on the contrary, have their origin principally in the premiums collected, at least a part of the interest earned by the companies upon the invested portion of these unearned premium and loss reserves should be considered, from the economic standpoint, to be part of the underwriting income, and adjusted with the underwriting profit or loss as usually computed. How much of the interest earned upon such reserves is properly a credit to the underwriting account is a question involving the consideration of many details of the operations of insurance companies. To illustrate, the unearned premium liability is computed from the date policies take effect, whereas the insurance companies cannot collect from their agents the premium due until from forty-five to ninety days later; and the agents retain their commission when remitting to the companies, so that the latter do not receive all of the premiums reported in their statements, but only the net percentage remitted by the agents. Moreover, fire insurance companies must carry large cash balances, so that claims may be paid without delay, which further tends to reduce the investment earnings. Therefore, it would be a grave error to assume that the underwriting accounts should be credited with interest upon the reserves, computed at the average rate earned by the companies. Years ago we thought an assumed interest rate of 3% was reasonable. This was reduced to 1½% in 1942. Beginning with the 1944 edition this item was omitted from our statistical exhibits because careful study proved that the calculation is now of relatively trifling importance as only a portion of such reserves are invested and earning interest; and interest rates are now very low."

Mr. Best gave similar testimony in the recent District of Columbia case, where he estimated that the correct rate at that time for figuring investment return on reserves was .49%, too slight to be recognized.

In arguing this case, the companies relied upon the provision in the 1921 formula that investment income on reserves should not be considered, and on the fact that the problem is under study by this committee. They also argued that the use of such a factor does not take into account the effect of depressions on investments and the need for maintaining large cash balances; that most fire policies are written for terms, on which a discount is given; that underwriting has nothing to do with the movement of monies.

The foregoing is a review of opinion and authorities as to the propriety of including investment earnings in underwriting profits, and presumably would merit the consideration of the Association whether the rate-making standard is established as either "underwriting profit" or "profit."

Consideration should also be given to other phases that would merit attention only if "profit" is the standard. Some attention was given in the Virginia case to a proposal that the return to which an insurer is entitled should be based upon capital, surplus and undivided profits. The Commission's Order and Opinion states (page 40), "Capital and surplus plus any other undivided profits constitute the only basis upon which the company may justly be deemed to be entitled to any sum in compensation for the general hazard of the business or the extra hazard of a conflagration." Later, the opinion adds, "The insurer is clearly entitled to some profit from the insurance business in which it is engaged in addition to what it may be able to make by the conservative investment of its capital and surplus without subjecting them to the hazard of the insurance business."

It may be argued that establishing a rate of profit in relation to capital funds would induce the investment or retention in the business of capital beyond all proper requirements; also, that such a standard would remove the incentive to provide underwriting capacity, for a guarantee of a return based on capital funds would remove the incentive to increase premium volume, and would in fact lead companies to reduce their exposure to underwriting loss. The reverse of this



argument would be that a return based on premiums leads to over-expansion, and that capital is attracted only by the competitive necessity of maintaining an adequate financial position.

### *Summary*

This sub-committee has found the entire subject of the determination of underwriting profit, or of profit alone, to be complex and replete with conflicting theories. This report makes clear, however, that the Commissioners' 1921 Standard Profit Formula has not gained full acceptance either in the courts or in the authorities. Full opportunity should be afforded for further exploration of its basic principles, including the use of earned premiums, incurred losses and incurred expenses, as well as the propriety of its exclusion of "banking" profit. In particular, it is suggested that methods of correcting statutory underwriting profit or loss which are reviewed herein be examined, including the establishment of an accrual account for prepaid expense.

This report is offered for the consideration of all concerned, and no inference should be drawn that the sub-committee has made a determination upon any aspect of the matter. It is suggested that representatives of the industry and all other interested parties be invited to submit briefs on the subject and that an opportunity for hearings be given.

Respectfully submitted,

(Signed) W. ELLERY ALLYN, Connecticut

(Signed) C. F. J. HARRINGTON, Massachusetts

(Signed) ROBERT E. DINEEN, New York, *Chairman*

November 22, 1946.

## APPENDIX J

REPORT OF COMMITTEE ON RATES AND RATING  
ORGANIZATIONS AND FEDERAL LEGISLATION  
OF NATIONAL ASSOCIATION OF INSUR-  
ANCE COMMISSIONERS, NEW YORK,  
N. Y., DECEMBER 3-7, 1946

The Committee met at the Hotel Delmonico in New York City on December 3-6, 1946 and at the office of the New York Insurance Department on December 7. The following members were present:

Charles F. J. Harrington, Massachusetts, Chairman  
J. Edwin Larson, Florida  
Newell R. Johnson, Minnesota  
Robert E. Dineen, New York

Also present were the following Commissioners:

John D. Pearson, Indiana  
Donald Knowlton, New Hampshire  
Walter Dressel, Ohio  
William A. Sullivan, Washington

The following departmental personnel were also present:

E. A. Faircloth, Florida  
John K. Tilton, Florida  
Robert D. Williams, Washington  
George H. McAteer, Washington  
Lloyd Yaudes, Wisconsin  
Alfred J. Bohlinger, New York  
Thomas C. Morrill, New York  
Raymond Harris, New York  
Victor Cohen, New York

At the same time there was a meeting of the All-Industry Committee and consultations were held between the two committees during the progress of the meetings.

The meeting of the Committee was devoted to a consideration of three main subjects—regulatory treatment of the accident and health business, treatment of the Federal Trade Commission Act on a state level and proposed amendments to the model rating bills. They will be discussed in this report in the order named.

*Accident and Health Insurance*

Reference should be made to the report of this Committee for the meeting held October 23-26, 1946.

The Accident and Health Subcommittee of the Sherman Act Subcommittee of the All-Industry Committee submitted a report to this Committee which had previously been adopted by the All-Industry Committee. In substance, this report incorporated a request to defer action on the accident and health regulatory problem until December, 1947. The spokesman for the subcommittee presented certain oral arguments to this Committee as to why action should be deferred. The members of this Committee agreed unanimously that a postponement was not in the public interest and that the industry and the Commissioners should come to grips with the problem at this time. The Accident and Health Subcommittee thereupon submitted to this Committee a proposed statute for dealing with

certain aspects of the accident and health business patterned in some respects along the lines of the proposals set forth in the report of October 23-26 and in some respects similar to the plans now used in New York, New Jersey and Florida.

At the October meeting certain representatives of the industry had stated to this Committee that appropriate legal machinery had to be devised to regulate activities in concert in the accident and health field. At this meeting, however, the members of this Committee were informed that those companies which had heretofore followed those practices would revise or adjust their procedures so as to eliminate the necessity for any legislation at this time covering concerted activities. At the October meeting it was pointed out that those companies which acted in concert in the accident and health field transacted a relatively small proportion of the business. In view of this determination this Committee concluded that there was no occasion at this time to draft any legislation dealing with concerted activities and for that reason a less detailed form of legislation was considered.

Attached hereto and marked Exhibit A is a draft of proposed legislation endorsed by the Accident and Health Subcommittee and the All-Industry Committee and which was approved by this Committee as a satisfactory method of regulating certain activities in the accident and health business. It is the product of many hours of debate and of compromises on both sides. It will be noted that this proposed bill provides for the filing of all policies, endorsements, etc., as well as premium rates. It contains a provision enabling the Commissioner to disapprove any policy provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or which encourage misrepresentation of such policy. It contains an additional provision enabling the Commissioner to disapprove the policy "if the benefits provided therein are unreasonable in relation to the premium charged." This provision was incorporated in the bill to provide a Commissioner with an effective method of dealing with those companies which have persisted in writing policies providing benefits which are not reasonable in relation to the premium charged. Under this bill the Commissioner will be able to prohibit the use of policies which are fraudulent or manifestly unfair to the public.

It will be noted that this bill provides a much less detailed regulatory machinery than that provided in the model fire and casualty rating bills. The reasons for providing different administrative machinery for dealing with this particular phase of the business is set forth in our report of October 23-26. This bill does not attempt to deal with all improper or deceptive practices in the accident and health field. Such activities are covered in the unfair trade practices act set forth later and will be discussed under the heading of "Unfair and Deceptive Practices in the Insurance Business".

Attention is particularly directed to the footnote on the accident and health regulatory bill. The degree of existing regulation of this field varies from state to state. Many different types of carriers are engaged in this business, some of whose activities are regulated under specific statutes or sections of the statutes relating to the individual type of carrier. In states which adopt the form of regulation set forth in Exhibit A, it will be necessary to integrate this statute with the overall regulatory scheme in order to avoid conflicts and duplications and at the same time to make sure that this line of the business is adequately regulated irrespective of the type of carrier engaged in carrying on the business.

#### *Unfair and Deceptive Practices in the Insurance Business*

Reference is made to the October 23-26 report of this Committee under the heading, "Federal Trade Commission Act". That report outlined a number of alternative methods of dealing with the subjects embraced within the Federal Trade Commission Act on a state level and for that reason we shall not restate these optional methods of treatment of this problem in this report.



Following a series of conferences between the All-Industry Committee and this Committee and an adjustment of certain ideas set forth in the proposals of both committees, a proposed bill was prepared, a copy of which is annexed hereto and marked Exhibit B. An initial draft of this bill, dated December 3, 1946, was approved by a majority vote of the All-Industry Committee and is on file with this Committee, but the draft attached contains certain additional changes made by this Committee upon which the All-Industry Committee has not yet had an opportunity to act.

From the first the members of this Committee have felt that if the problems created by the S.E.U.A. case and U. S. Public Law 15 were to be solved upon a state level, it was necessary to devise an integrated program. The job could not be done by a patchwork approach; the parts had to fit together within the contemplation of U. S. Public Law 15. This point can best be illustrated by a reference to the situation which confronted this Committee in connection with conditions in the accident and health business. As we pointed out in our previous report, it is a known fact that there are a number of companies operating in that business which provide inadequate policy benefits at excessive prices. This situation could not continue. The problem was how to regulate it. Should it be done by a rate regulatory bill such as the model bills? Should it be treated through a bill of the type set forth earlier in this report? Should it be regulated under an omnibus unfair trade practices act at a state level? If a decision was reached not to deal with this problem under a bill similar to the model rating bills and if no accident and health bill of the type set forth earlier in this report was adopted, it was apparent that in order to cope with the situation an extremely flexible unfair trade practices act was required. In the illustration given this Committee has presupposed that the states wanted to cope with this problem on a state level; otherwise existing federal acts designed to cope with this problem would become automatically operative after January 1, 1948. Similar illustrations could be given in other branches of the business.

This brings us to a consideration of Exhibit B. That bill may be described as an unfair and deceptive practices act containing prohibitions against certain enumerated practices and an omnibus provision designed to cover unenumerated practices. It is the belief of this Committee that to the extent possible this act provides adequate machinery for dealing with the scope of the Federal Trade Commission act on a state level. We do not claim that this act can prevent the Federal Trade Commission from exercising the broad powers conferred upon it to act as the investigatory agent of Congress.

In the drafting of this bill certain prohibited practices have been set forth. Most practices in the insurance business inimical to the public welfare are well known and may be defined in a bill of this type. However, these practices sometimes vary from state to state and consequently legislation which might be necessary in one state would not be necessary in another. The Committee emphasizes that where this legislation is introduced consideration should be given to the purely local problems of the state in drafting the definitive section of the bill.

It will be noted that under this proposed bill, while power is conferred upon the Commissioner to issue cease and desist orders in connection with the enumerated practices, his power in connection with the unenumerated practices is limited. Authority has been given to him to initiate proceedings, subpoena witnesses, conduct hearings and make findings as to unenumerated practices. However, before his findings may be enforced it is necessary to bring an action in court through the medium of the Attorney General of the state. That this procedure is more circuitous than one giving the Commissioner power to issue cease and desist orders in any case is apparent. In considering this more restrictive form of administrative procedure the Committee was influenced by certain considerations: (1) Because of the experience of the states in regulating the business over a period of many years, unfair and deceptive practices are well known to the regulatory authorities and consequently should be set forth in the statute

itself. This procedure, in the opinion of the Committee, is to be commended because under it people subject to the law know in advance what they may not do. (2) Although the history of state legislation in the insurance business extends back to 1807, until the present time no state had ever found it necessary to create a state counterpart of the Federal Trade Commission Act, or to entrust to state regulatory officials the specific power contained in the attached bill. The definitive approach had been uniformly followed. In so far as the proposed statute is concerned, state regulation is about to enter a new and broader regulatory field in which we should seek an enlargement of procedural authority only as its need is demonstrated.

If an adequate, overall regulatory pattern is enacted, including a comprehensive enumeration of prohibited practices, the Committee was of the opinion that there should be relatively few occasions for the use of this omnibus provision. In this connection it must be remembered that that provision of the omnibus section enabling the Commissioner to initiate proceedings, hold hearings and make a report should in many instances deter those who are engaged in questionable practices, thus eliminating the necessity for court procedure. If experience demonstrates that a considerable number of cases arise under the omnibus clause, it may well be that additional defined practices should be enumerated or that a more direct administrative procedure will be required.

#### *Proposed Amendments to the Model Rating Bills*

Attached to this report (marked Exhibit C) is a report of the Sherman Act Subcommittee of the All-Industry Committee dated December 5, 1946, containing proposed amendments to the model rating bills. The All-Industry Committee by a majority vote adopted the report of its Sherman Act Subcommittee recommending these changes. This Committee gave careful consideration to the proposed amendments but time did not permit sufficient discussion to enable the members of this Committee to reach a final conclusion and for that reason no action was taken by this Committee upon the proposals.

The Committee completed its labors at a late hour on Saturday night, December 7, in order to have this material mimeographed for distribution to the members of the Association when the mid-year meeting convenes on Sunday, at 2:30 P.M. While every effort was made to guard against inaccuracies, time did not permit as careful and detailed a check of the language as the Committee would have preferred. At the first opportunity the Committee will review this material and make whatever editorial corrections may be necessary.

There were certain phases of the proposed bills which require additional study. Furthermore, the Committee felt that upon further consideration it might well be advisable to include in the definitive sections certain additional practices not enumerated. A proposed solution of the interstate advertising problem was explored preliminarily but no final conclusion was reached and this subject requires additional study. A supplemental report will be issued covering these phases of the matter at the earliest opportunity, for the Committee has kept constantly in mind the fact that many state legislatures will be meeting in January, 1947.

Respectfully submitted,

CHARLES F. J. HARRINGTON, Massachusetts, *Chairman*  
J. EDWIN LARSON, Florida  
NEWELL R. JOHNSON, Minnesota  
ROBERT E. DINEEN, New York

## EXHIBIT A

PROPOSED AMENDMENT TO LAW FOR PERSONAL ACCIDENT  
AND HEALTH INSURANCE

A. No policy of insurance against loss or expense from the sickness, or from the bodily injury or death by accident of the insured shall be issued or delivered to any person in this State nor shall any application, rider or endorsement be used in connection therewith until a copy of the form thereof and of the classification of risks and the premium rates, or, in the case of co-operatives or assessment companies the estimated cost pertaining thereto have been filed with the Commissioner of Insurance.

B. No such policy shall be issued, nor shall any application, rider or endorsement be used in connection therewith, until the expiration of 30 days after it has been so filed unless the Commissioner shall sooner give his written approval thereto.

C. The Commissioner may, within 30 days after the filing of any such form, disapprove such form (1) if the benefits provided therein are unreasonable in relation to the premium charged, or (2) if it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy. If the Commissioner shall notify the insurer which has filed any such form that it does not comply with the provisions of this section or sections, ..... (insert here appropriate references to the Standard Provision Section and any other relevant sections) it shall be unlawful thereafter for such insurer to issue such form or use it in connection with any policy. In such notice the Commissioner shall specify the reasons for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer.

D. The Commissioner may at any time, after a hearing of which not less than 20 days' written notice shall have been given to the insurer, withdraw his approval of any such form on any of the grounds stated in this section. It shall be unlawful for the insurer to issue such form or use it in connection with any policy after the effective date of such withdrawal of approval. The notice of any hearing called under this paragraph shall specify the matters to be considered at such hearing and any decision affirming disapproval or directing withdrawal of approval under this section shall be in writing and shall specify the reasons therefor.

E. Any order or decision of the Commissioner under this section shall be subject to review by appeal (writ or certiorari) to the ..... Court at the instance of any party in interest. In the case of disapproval or withdrawal of approval of a form previously in use the court shall determine whether the filing of the appeal (petition for such writ) shall operate as a stay of any such order or decision. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Commissioner in whole or in part.

*Explanatory Notes:*

Subsection "E" should be omitted in any state which has a specific general provision for appeal from the review of decisions of the Commissioner of Insurance. The scope of the review should be revised to conform to the policy of the state in which this bill is introduced. Provisions for filings by fraternal benefit societies may be included in this section in the case of states having no other applicable provisions for such societies.

A more detailed explanation as to the manner of integrating this statute into existing Insurance Laws will be set forth in an addendum to be issued by this Committee following the December, 1946 meeting.



## EXHIBIT B

AN ACT RELATING TO UNFAIR PRACTICES IN THE BUSINESS  
OF INSURANCE*Section 1 — Purpose*

The purpose of this Act is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in Public Law 15—79th Congress, by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

*Section 2 — Definitions (As Used in this Act) :*

(a) "Persons" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurers, fraternal benefit society and any other legal entity, engaged in the business of insurance, including agents, brokers, and adjusters.

(b) ("Commissioner") shall mean the ("Commissioner") of Insurance of this State.

*Section 3 — Unfair Methods and Unfair or Deceptive Acts and Practices Prohibited*

No person shall engage in this state in unfair methods of competition or in unfair or deceptive acts and practices in the conduct of the business of insurance.

*Section 4 — Methods, Acts and Practices Which are Defined Herein as Unfair or Deceptive*

(a) The following are declared to be unfair methods of competition and unfair or deceptive acts and practices in the business of insurance :

(1) *Misrepresentations and False Advertising of Policy Contracts.* Making, issuing, circulating, or causing to be made, issued, circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policy holder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) *False Information and Advertising Generally.* Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical

of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) *Boycott, Coercion and Intimidation.* Entering into any agreement to commit, or individually or by any concerted action committing any act of boycott, coercion or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) *False Financial Statements.* Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(6) *Stock Operations and Advisory Board Contracts.* Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) *Unfair Discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract, provided that, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor.

(b) \*Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever, provided that, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor.

8. *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate or premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities

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\* In the event that unfair discrimination in connection with accident and health coverage is treated in other statutes the above section should be omitted.

of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in clause (7) or paragraph (a) of Clause (8) of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices: (i) paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders: (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense; (iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(9) Requiring as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned, negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers, provided, however, that this provision shall not prevent the exercise by any insurance company of its right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(Note: Each state may add such additional definitive acts as may be considered necessary or desirable.)

(10) Any violation of any one of Sections . . . . .<sup>1</sup>

(b) The enumeration in this Act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the (commissioner) or any court of review under the provisions of Section 11 of this Act.

#### *Section 5 — Power of (Commissioner)*

The (commissioner) shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair act or practice.

#### *Section 6 — Notice of Hearing*

If the (commissioner) shall have reason to believe that any person is engaging in this state in any unfair method of competition or in any unfair or deceptive act or practice in the conduct of such business, as enumerated in subsection (a) of Section 4, and that a proceeding by him in respect thereto would be to the interests of the public, he shall issue and serve upon such person a statement of the charges and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than . . . . days from the date of service thereof.

#### *Section 7 — Hearing, Witnesses, Production of Books*

At the time and place fixed for the hearing before the (commissioner), such person shall have an opportunity to be heard and to show cause why an order should not be made by the (commissioner) requiring such person to cease and

<sup>1</sup> Insert section numbers of any other sections of the Insurance Law which it is deemed desirable or necessary to include as an unfair trade practice.



desist from the acts, methods or practices so complained of. The (commissioner) upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The (commissioner), upon such hearing may, and upon the request of any party shall, cause to be made a written record of all the evidence offered or introduced and proceedings had at such hearing.

Nothing in this Act contained shall require the observance at any hearing of formal rules of pleading or evidence.

#### *Section 8 — Appearances.*

Upon good cause shown, the (commissioner) may permit any person to intervene, appear and be heard at such hearing.

#### *Section 9 — Cease and Desist Order and Review*

If after hearing the (commissioner) shall determine that the acts, methods or practices which are the subject of the inquiry are defined in subsection (a) of Section 4, and shall be of the opinion that the person complained of has engaged in such acts or practices in violation of the provisions of such subsection, he shall reduce his findings to writing and shall issue and cause to be served on the person charged with the violation of law an order requiring such person to cease and desist from such method, act or practice. Until the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time, or, if a (notice of appeal) (petition for such writ) has been filed within such time, then until the transcript of the record in the proceeding has been filed in the ..... court, as hereinafter provided, the (commissioner) may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by him under this section. After the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time, the (commissioner) may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

(b) Any order of the (commissioner) directing any person to cease and desist from using any method of competition or act or practice shall be subject to review

(here insert language describing scope of review)

by (appeal) (writ of certiorari) to (the ..... court) of ..... county.<sup>3</sup> The court shall determine whether the filing of the (appeal) (petition for such writ) shall operate as a stay of such order of the (commissioner). The court may, in disposing of the issue before it, modify, affirm, or reverse the order of the (commissioner) in whole or in part. To the extent that the order of the (commissioner) is affirmed or modified, the court shall issue its own order commanding obedience to the terms of the order of the (commissioner).

<sup>3</sup> The county in which the seat of government is located. If time within which appeal must be taken should be limited, insert such provision.

(c) No order of the (commissioner) or judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under any other laws of this state.

(d) An order of the (commissioner) to cease and desist shall become final —

(1) upon the expiration of the time allowed for filing a (notice of appeal) (petition for writ of certiorari), if no such (notice of appeal) (petition for such writ) has been duly filed within such time; or

(2) upon a final decision of the court if a judicial review has been sought of the order of the (commissioner).

(e) If the report of the (commissioner) does not charge a violation of this Act, then any party to the proceeding, including any intervenor, may within . . . . days after the service of such report cause a like petition to be filed in the . . . . . court of . . . . . county for a view of the report of the (commissioner).

#### *Section 10 — Penalty*

Any person who violates an order of the (commissioner) to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the state of . . . . . a civil penalty of not more than \$5,000 for each violation, which may be recovered in a civil action.

#### *Section 11 — Procedure as to Undefined Methods of Unfair Competition or Deceptive Acts and Practices*

(a) If the (commissioner) shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business other than those enumerated in subsection (a) of Section 4, and that such method is an unfair method of competition or that such act or practice is unfair or deceptive, and that a proceeding by him in respect thereto would be to the interest of the public, he may, after a hearing held upon notice as provided in Section 6, make a report in writing in which he shall state his findings as to the facts and serve a copy thereof upon such person.

(b) If such report charges a violation of this Act and if such method of competition, act or practice has not been discontinued, the (commissioner) may, through the Attorney General of this state, at any time after . . . . days after the service of such report cause a petition to be filed in the . . . . . court of this state within the district wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public *pendente lite*.

(c) A transcript of the proceedings before the (commissioner) including all evidence taken and the report and findings shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the (commissioner) the court may order such additional evidence to be taken before the (commissioner) and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The (commissioner) may modify his findings of the facts or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If in the judgment of the court the method of competition complained of is unfair or the act or practice complained of is unfair or deceptive, and the proceeding by the (commissioner) with respect to such method of competition, act or practice is of interest to the public, and the findings of the (commissioner)

are supported by the weight of the evidence,<sup>4</sup> it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

### *Section 12 — Procedure Additional*

The powers vested in the (commissioner) by this Act, shall be in addition to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

### *Section 13 — Punishment for Failure to Obey Subpoena*

In case of refusal of any person to comply with any subpoena issued hereunder or to testify to any matter to which he may be lawfully interrogated, the . . . . . court of . . . . . county or the county where said party resides on application of the (commissioner) may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

### *Section 14 — Immunity from Prosecution*

If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must none the less comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding, provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the Insurance Law of this state. Any such individual may execute, acknowledge and file in the office of the (commissioner) a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

### *Section 15 — Constitutionality*

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.

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<sup>4</sup> The reference to the evidence required upon hearings before the court concerns itself with rules of evidence. The rules of evidence vary in different jurisdictions. Appropriate language is to be used in each state.



## EXHIBIT C

December 5, 1946

## REPORT OF THE SHERMAN ACT SUBCOMMITTEE

The Conference Committee, after careful consideration of the proposals of the National Association of Independent Insurers, recommended the adoption of the following amendments to the Casualty and Surety and Fire, Marine and Inland Marine Rate Regulatory Bills:

Section 4(a) of the Casualty Bill is amended to read as follows:

(a) Every insurer shall file with the (commissioner) every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. *When a filing is not accompanied by the information upon which the insurer supports such filing, and the (commissioner) does not have sufficient information to determine whether such filing meets the requirements of the Act, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by (1) the experience or judgment of the insurer or rating organization making the filing, (2) the experience of other insurers or rating organizations, or (3) any other factors which the insurer or rating organization deems relevant.* A filing and any supporting information shall be open to public inspection after the filing becomes effective.

Section 4(a) of the Fire Bill is amended to read as follows:

(a) Every insurer shall file with the (commissioner), except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. *When a filing is not accompanied by the information upon which the insurer supports such filing, and the (commissioner) does not have sufficient information to determine whether such filing meets the requirements of the Act, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by (1) the experience or judgment of the insurer or rating organization making the filing, (2) the experience of other insurers or rating organizations, or (3) any other factors which the insurer or rating organization deems relevant.* A filing and any supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the (commissioner).

Section 5 of the Casualty Bill is amended by adding thereto the following new subsection:

*(e) No manual of classifications, rule, rating plan, rating system, plan of operation or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, shall be disapproved if the rates thereby produced meet the requirements of this Act.*

Section 5 of the Fire Bill is amended by adding thereto the following new subsection:

*(e) No manual, minimum, class rate, rating schedule, rating plan, rating rule, rating system, plan of operation or any modification of any of the fore-*

*going shall be disapproved if the rates thereby produced meet the requirements of this Act.*

These amendments were offered and adopted for the purpose of avoiding possible misinterpretation of the intent of the sections amended. The amendments do not represent a departure in principle from the Bills as approved at Portland, Oregon, in June, 1946.

SUPPLEMENTAL REPORT TO REPORT OF COMMITTEE ON RATES  
AND RATING ORGANIZATIONS AND FEDERAL LEGISLATION  
OF NATIONAL ASSOCIATION OF INSURANCE  
COMMISSIONERS  
NEW YORK, N. Y., DECEMBER 3-7, 1946

The purpose of this supplemental report is to call attention to certain items contained in Exhibit B (An Act Relating to Unfair Practices in the Business of Insurance) attached to the report heretofore made by this Committee. In order that the members of the National Association of Insurance Commissioners may have all available material, there is attached hereto the proposed bill covering unfair trade practices which was submitted to your Committee by the All-Industry Committee, being the revision of December 3, 1946.

*Section 2(a).* The words "including agents, brokers and adjusters" are new. The All-Industry Committee suggested adding agents and brokers and your Committee proposed that adjusters be included in the definitions.

*Section 4(a) (1).* The words "or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates," have been added by your Committee.

*Section 4(a) (2).* The words "or placing before the public, or causing," have been added by your Committee.

*Section 4(a) (3).* The words "of or derogatory to the financial condition of an insurer," have been added by your Committee.

*Section 4(a) (4).* The words "or individually" have been added by your Committee.

*Section 4(a) (5).* In place of the words "any financial statement or an insurer which does not accurately state its true financial condition" contained in the All-Industry revision of December 3rd, your Committee has proposed the words "any false statement of financial condition of an insurer with intent to deceive." The entire second paragraph concerning the making of false entries in books, etc. has been proposed by your Committee.

*Section 4(a) (7) (a).* The words "involving essentially the same hazards, expense elements" contained in the All-Industry revision of December 3rd have been omitted and the words "provided that, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor" have been proposed by the All-Industry Committee.

*Section 4(a) (7) (b).* The words "and expense elements" contained in the All-Industry revision of December 3rd have been omitted. The All-Industry Committee proposed the words "or in any other manner whatever, provided that, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor."

*Section 4(a) (8) (a).* The words "knowingly permitting or offering to make or" and "or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly," have been proposed by your committee.

*Section 4(a) (8) (b).* The words "provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; in the case of life insurance policies issued on the industrial debit plan," have been proposed by your committee.

*Section 4(a) (9).* This entire subsection was proposed by your Committee.

*Section 4(a) (10).* This is a revision of Section 4(a) (9) of the All-Industry revision of December 3rd. The words which have been deleted represent a purely editorial change.

*Section 4(b).* The change in the last line of this subsection is purely editorial and was necessitated by changes in section numbering.

Section 6 of the All-Industry revision of December 3rd covering the subject of multiple state advertising by foreign or alien insurers has been omitted in its entirety.

Concerning the foregoing changes, your Committee has not explored them thoroughly and the same may be said in so far as the All-Industry Committee is concerned.

Regarding the balance of Exhibit A attached to your Committee's report, Sections 6 and 14 are new sections which have been proposed by your Committee. Section 9 has been adopted from the draft of bill marked Exhibit "D" attached to your Committee's report of October 23-26, 1946.

Section 11 has been adopted from Section 5 of the All-Industry revision of December 3rd with such changes as have been necessitated in procedure arising from the fact that Section 5 of the All-Industry revision of December 3rd embraced in one section the procedures embodied in Sections 9 and 11 of Exhibit "A" attached to your Committee's report of December 3-7, 1946.

None of the foregoing four sections, namely, 7, 9, 11 and 14, has been considered by the All-Industry Committee.

Your Committee has given no consideration to the problems arising out of the Clayton Act. Due to insufficient time your Committee has been unable to consider this subject.

Respectfully submitted,

CHARLES F. J. HARRINGTON, Massachusetts, *Chairman*  
J. EDWIN LARSON, Florida  
NEWELL R. JOHNSON, Minnesota  
ROBERT E. DINEEN, New York  
MAYNARD GARRISON, California

Revision of December 3rd

## AN ACT RELATING TO UNFAIR PRACTICES IN THE BUSINESS OF INSURANCE

### *Section 1 — Purpose*

The purpose of this Act is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in Public Law 15—79th Congress, by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.



## *Section 2 — Definitions (As Used in this Act)*

(a) "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurers, fraternal benefit society and any other legal entity, engaged in the business of insurance.

(b) ("Commissioner") shall mean the ("Commissioner") of Insurance of this state.

## *Section 3 — Unfair Methods and Unfair or Deceptive Acts and Practices Prohibited*

No person shall engage in this state in unfair methods of competition or in unfair or deceptive acts and practices in the conduct of the business of insurance.

## *Section 4(a) — Methods, Acts and Practices Which are Defined Herein as Unfair or Deceptive*

The following are declared to be unfair methods of competition and unfair or deceptive acts and practices in the business of insurance:

(1) *Misrepresentations and False Advertising of Policy Contracts.* Making, issuing, circulating, or causing to be made, issued, circulated, any estimate, illustration, circular, or statement, the terms of any policy issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit, or surrender his insurance.

(2) *False Information and Advertising Generally.* Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical and which is calculated to injure any person engaged in the business of insurance.

(4) *Boycott, Coercion and Intimidation.* Entering into any agreement to commit, or by any concerted action, committing, any act of boycott, coercion or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) *False Financial Statements.* Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any financial statement of an insurer which does not accurately state its true financial condition.

(6) *Stock Operations and Advisory Board Contracts.* Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any

common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) *Unfair Discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards, expense elements and equal expectation of life in the rates charged for contracts of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contracts.

(b) \*Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards and expense elements, in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contracts other than as plainly expressed in the contract issued thereon, or paying or allowing, or offering to pay or allow, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in clause (7) or paragraph (a) of Clause (8) of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices: (i) paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance; (ii) making allowance to industrial policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense; (iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, retroactive only for such policy year.

(Note: Each state may add such additional definitive acts as may be considered necessary or desirable.)

(9) Any violation of any one of Sections . . . . . of the statutes of this state is also hereby declared to be an unfair method of competition and an unfair or deceptive act and practice in the business of insurance.<sup>1</sup>

(b) The enumeration in this Act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the (commissioner) or any court of review under the provisions of Section 5 of this Act.

#### *Section 5 — Procedure as to Defined and Other Unfair Acts and Practices*

(a) If the (commissioner) shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any unfair method

\* In the event that unfair discrimination in connection with accident and health coverage is treated in other statutes the above section should be omitted.

<sup>1</sup> Insert section numbers of any other sections of the Insurance Law which it is deemed desirable or necessary to include as an unfair trade practice.

of competition or in any unfair or deceptive act or practice in the conduct of such business, other than those enumerated in Subsection (a) of Section 4, or if he shall have reason to believe that any such person is engaging in this state in any method of competition or in any act or practice enumerated in Subsection (a) of Section 4, and that a proceeding by him in respect to any such method of competition, act or practice whether or not so enumerated, would be to the interest of the public, he may issue and serve upon such person a statement of the charges and a notice, of a hearing thereon to be held at a time and place fixed in the notice which shall not be less than . . . . days from the date of service thereof. The (commissioner) shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and serve a copy thereof upon such person.

(b) If such report charges a violation of this Act and if such method of competition, act or practice has not been discontinued, the (commissioner) may, through the Attorney General of this State, at any time after . . . . days after the service of such report cause a petition to be filed in the . . . . . court of this state within the district wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public *pendente lite*.

(c) A transcript of the proceedings before the (commissioner) including all evidence taken and the report and findings shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the (commissioner) the court may order such additional evidence to be taken before the (commissioner) and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The (commissioner) may modify his findings of the facts or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If the court finds that the method of competition, act or practice complained of is enumerated in Subsection (a) of Section 4, or, if not so enumerated, that in the judgment of the court, the method of competition complained of is unfair, or the act or practice complained of is unfair or deceptive, and in either case that the proceeding by the (commissioner) with respect to such method of competition, act or practice whether or not enumerated in Section 4 is of interest to the public and that the findings of the (commissioner) are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

(e) If the report of the (commissioner) does not charge a violation of this Act, then any party to the proceeding, including any intervener, may within . . . . days after the service of such report cause a like petition to be filed in the . . . . . court of . . . . . county for a review of the report of the (commissioner).

*Section 6 — Multiple State Advertising by Foreign or Alien Insurers.* If any foreign or alien insurer engages in this state in an unfair method of competition or in an unfair or deceptive practice as defined in clauses (1) and (2) of Subsection (a) of Section 4, by means of any advertisement, announcement or statement, in any magazine or other periodical publication having a general circulation in more than *five* states, or by means of any radio broadcast to more than *five* states, including the state of domicile of such insurer, and if the laws of the state where such insurer is domiciled make provision for the enjoining of such method of competition or practice, it shall be the duty of the (commissioner) to



advise the insurance supervisory official of such domiciliary state of the violation in order that he may take appropriate action, but the (commissioner) shall have no authority to proceed, with respect to such violation, under Section 5 of this Act. For the purpose of this section the domiciliary state of an alien insurer shall be deemed to be its state of entry, or the state of the principal office in the United States.

#### *Section 7 — Power of (Commissioner)*

The (commissioner) shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair act or practice.

#### *Section 8 — Hearing, Witnesses, Production of Books*

At the time and place fixed for the hearing before the (commissioner), such person shall have an opportunity to be heard. The (commissioner) upon such hearing may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The (commissioner), upon such hearing may, and upon the request of any party shall, cause to be made a written record of all the evidence offered or introduced and proceedings had at such hearing.

Nothing in this Act contained shall require the observance at any hearing of formal rules of pleading or evidence.

#### *Section 9 — Appearances*

Upon good cause shown, the (commissioner) may permit any person to intervene, appear and be heard at such hearing.

#### *Section 10 — Procedure Additional.*

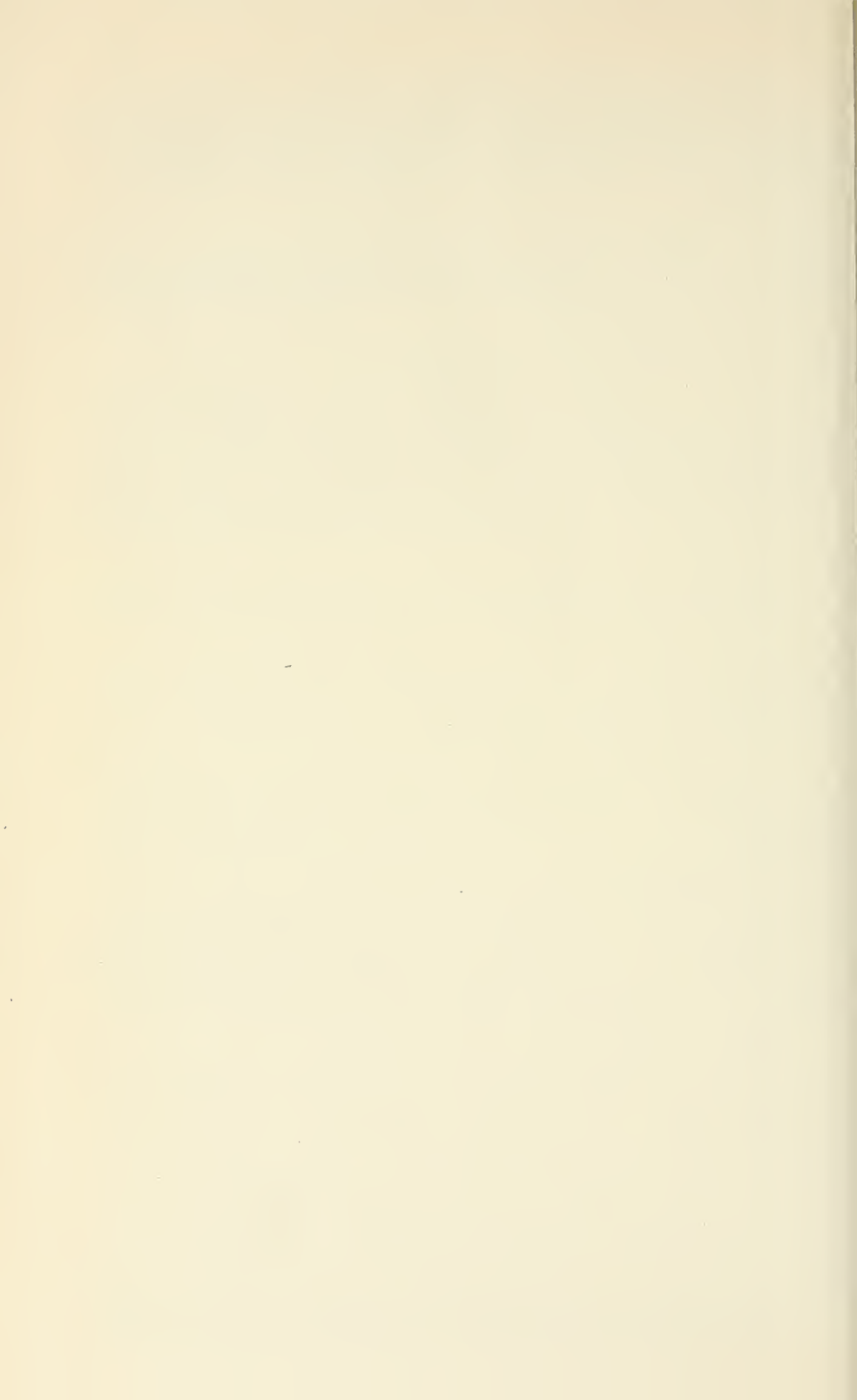
The powers vested in the (commissioner) by this Act, shall be in addition to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

#### *Section 11 — Punishment for Failure to Obey Subpoena*

In case of refusal of any person to comply with any subpoena issued hereunder or to testify to any matter to which he may be lawfully interrogated, the ..... court of ..... county or the county where said party resides on application of the (commissioner) may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

#### *Section 12 — Constitutionality*

If any section, subsection, subdivision, paragraph, sentence or clause of this Act is held invalid or unconstitutional, such decision shall not affect the remaining portions of this Act.



STATISTICAL  
TABLES



# STATISTICAL TABLES.

TABLE 1.—Fire and Marine Insurance Companies Authorized to Transact Business in Massachusetts on Dec. 31, 1946

NAME OF COMPANY	Principal Office	Incorporated	Commenced Business	Admitted to Mass.	President	Secretary
<i>Massachusetts Mutual Companies Other than Manufacturers'</i>						
Abington Mutual Fire Insurance Co.	Abington, Mass.	1886	1887	1887	John R. Wheatley	Wm. A. Robbins
Allied American Mutual Fire Insurance Co.	Boston, Mass.	1920	1920	1920	Charles E. Hodges	H. C. Knappenberg, Jr.
Associated Merchants Mutual Insurance Co.	Boston, Mass.	1919	1922	1921	Wesley E. Lindsey	Claudius M. Tice
Attleborough Mutual Fire Insurance Co.	Attleboro, Mass.	1844	1845	1845	Victor R. Glencross	R. Burton Forbes
Barnstable County Mutual Fire Insurance Co.	Yarmouthport, Mass.	1833	1833	1833	Everett P. Kelley	Ruth G. Clift
Berkshire Mutual Fire Insurance Co.	Pittsfield, Mass.	1939	1939	1939	Karl E. Greene	Charles W. Gallup
Cambridge Mutual Fire Insurance Co.	Andover, Mass.	1833	1834	1834	Burton S. Flagg	Edward C. Nichols
Dorchester Mutual Fire Insurance Co.	Boston, Mass.	1855	1855	1855	Frederick W. Hill	John N. Tully
Federal Mutual Fire Insurance Co.	Boston, Mass.	1907	1907	1907	James S. Kemper	M. P. Luthy
Fitchburg Mutual Fire Insurance Co.	Fitchburg, Mass.	1847	1847	1847	Wilbur W. Henry	W. Bruce Adams
Groveland Mutual Fire Insurance Co.	Groveland, Mass.	1828	1828	1828	Charles H. Pike	John A. Marshall
Hingham Mutual Fire Insurance Co. in Salem	Hingham, Mass.	1826	1826	1826	Ira G. Hersey, Jr.	Thomas Bates
Holyoke Mutual Fire Insurance Co.	Salem, Mass.	1843	1843	1843	Carlos P. Faunce	Harry F. Marden
Lowell Mutual Fire Insurance Co.	Lowell, Mass.	1832	1832	1832	John W. Robinson	A. Clifford Woodside
Lumber Mutual Fire Insurance Co. of Boston, Massachusetts, Fire	Boston, Mass.	1895	1895	1895	Hazen H. Ayer	H. M. Goodwin
Lynn Mutual Fire Insurance Co.	Concord, Mass.	1828	1828	1828	Eliot R. Howard	Charles E. Hogan
Merchants and Farmers Mutual Fire Insurance Co.	Worcester, Mass.	1846	1847	1847	Alexander H. Bullock	Clifford A. Peterson
Merrimack Mutual Fire Insurance Co.	Concord, Mass.	1828	1828	1828	Burton S. Flagg	Edward C. Nichols
Middlesex Mutual Fire Insurance Co.	Concord, Mass.	1826	1826	1826	Eliot R. Howard	Charles E. Hogan
Mutual Fire Assurance Co. of Springfield	Springfield, Mass.	1827	1827	1827	Charles C. McElwain	Windsor Sturtevant
Newburyport Mutual Fire Insurance Co.	Newburyport, Mass.	1829	1829	1829	Warren S. Currier	Mary M. Jacoby
Norfolk and Dedham Mutual Fire Insurance Co.	Dedham, Mass.	1937	1937	1937	Harold A. Knapp	George S. Goldthwait
Pioneer Mutual Insurance Co.	Boston, Mass.	1934	1935	1935	Harry P. Abramson	Onne Abramson
Quincy Mutual Fire Insurance Co.	Quincy, Mass.	1851	1851	1851	James F. Young	Harvey MacArthur
Salem Mutual Fire Insurance Co.	Salem, Mass.	1838	1838	1838	William Chisholm	Perley B. Barding
Traders and Mechanics Insurance Co.	Lowell, Mass.	1848	1848	1848	Harold K. Bartlett	J. Carlton Burbank
United Mutual Fire Insurance Co.	Boston, Mass.	1908	1908	1908	S. Bruce Black	Lewis O. Barrows
West Newbury Mutual Fire Insurance Co.	West Newbury, Mass.	1828	1828	1828	Robert S. Brown	Charles F. Brown
Worcester Mutual Fire Insurance Co.	Worcester, Mass.	1823	1824	1824	Harry Harrison	Minott M. Rowe

*Mutual Companies of Other States Other than Manufacturers'*

Atlantic Mutual Insurance Co.	New York, N. Y.	1842	1842	1864	J. A. Bogardus	W. J. Thompson
Automobile Mutual Insurance Co. of America	Providence, R. I.	1907	1907	1922	DeForest W. Abel	John W. Blair
Central Manufacturers' Mutual Insurance Co., The	Van Wert, Ohio	1876	1876	1901	H. J. Haggie	Paul W. Plummer
Employers' Mutual Fire Insurance Co.	Wausau, Wis.	1935	1935	1942	C. R. McCotter	C. H. Brimmer
Grain Dealers National Mutual Fire Insurance Co.	Indianapolis, Ind.	1902	1902	1913	Carl N. Jacobs	O. M. Earl
Hardware Dealers Mutual Fire Insurance Co.	Stevens Point, Wis.	1903	1904	1918	H. R. Caley	Joseph B. Beach
Hardware Mutual Insurance Co. of Minnesota	Minneapolis, Minn.	1899	1900	1918	L. G. Saltmarsh	D. F. Raible
Indiana Lumbermen's Mutual Insurance Co.	Indianapolis, Ind.	1897	1897	1908	G. E. Beal	G. E. Beal
Lumbermen's Mutual Insurance Co., The	Mansfield, Ohio	1895	1895	1904	Chas. H. Keating	Dale G. Roth
Manufacturers and Merchants Mutual Insurance Co.	Concord, N. H.	1885	1886	1917	Charles L. Jackson	Carl G. Gesen
Merchants and Business Men's Mutual Fire Insurance Co.	Harrisburg, Pa.	1921	1921	1940	W. W. Dodson	Frank M. Stevens*
Michigan Millers Mutual Fire Insurance Co.	Lansing, Mich.	1881	1881	1910	S. L. Baker	L. B. Tobey
Millers' Mutual Fire Insurance Co.	Alton, Ill.	1877	1877	1916	C. S. Milnor	B. C. Vine
Millers Mutual Fire Insurance Co.	Harrisburg, Pa.	1890	1890	1924	C. M. Hutchinson	M. D. Hager
Millers Mutual Fire Insurance Co. of Texas, The	Fort Worth, Texas	1898	1898	1913	Ed K. Collett	J. B. Knight
Millers National Insurance Co.	Chicago, Ill.	1865	1869	1907	W. S. Whitford	Arthur A. Krueger
Mill Owners Mutual Fire Insurance Co.	Des Moines, Iowa	1875	1875	1916	H. B. Carson	L. K. Sharp
Mutual Fire Insurance Co., Saco, Maine	Saco, Maine	1827	1827	1925	L. G. Purmort	H. E. Rodgers
Mutual Implement and Hardware Insurance Co.	Owatonna, Minn.	1904	1904	1918	John A. Buxton	Edward C. Ellis
National Retailers Mutual Insurance Co.	Chicago, Ill.	1922	1914	1923	James S. Kemper	Chase M. Smith
Northwestern Mutual Fire Insurance Co.	Seattle, Wash.	1901	1901	1921	L. D. Brill	O. Jacobsen
Pawtucket Mutual Fire Insurance Co.	Pawtucket, R. I.	1848	1849	1901	C. A. Moffett	E. R. Horton
Pennsylvania Lumbermen's Mutual Fire Insurance Co.	Philadelphia, Pa.	1895	1895	1908	Herman J. Pelstring	Archibald Kellock
Phoenix Mutual Fire Insurance Co.	Wilkes-Barre, Pa.	1887	1887	1913	C. R. Hoffa	Ira J. Milligan
Providence Mutual Fire Insurance Co., The	Concord, N. H.	1886	1890	1921	Charles L. Jackson	Walter Williamson
Union Mutual Fire Insurance Co.	Providence, R. I.	1800	1800	1898	Benj. M. MacDougall	Francis S. Goff, Jr.
Utica Fire Insurance Co. of Oneida County, N. Y.	Providence, R. I.	1863	1863	1902	Frederick T. Moses	Clarence H. Cady
Vermont Mutual Fire Insurance Co.	Utica, N. Y.	1903	1903	1930	T. Harvey Ferris	H. A. Ackroyd
	Montpelier, Vt.	1828	1828	1927	Lee O. Tracy	Delbert W. Gross
<i>Massachusetts Manufacturers' Mutuals</i>						
Arkwright Mutual Fire Insurance Co.	Boston, Mass.	1860	1860	1860	Edward A. Barrier	Howard F. Alden
Boston Manufacturers' Mutual Fire Insurance Co.	Boston, Mass.	1850	1850	1850	Marshall B. Dalton	Otto F. Hauck
Cotton and Woolen Manufacturers' Mutual Insurance Co. of New England	Boston, Mass.	1875	1875	1875	Edward H. Williams	C. Henry Clough
<i>Manufacturers' Mutuals of Other States</i>						
Blackstone Mutual Fire Insurance Co.	Providence, R. I.	1868	1868	1900	Charles E. Rigby	George F. Wahl
Fremont's Mutual Insurance Co.	Providence, R. I.	1854	1854	1900	Frederick T. Moses	Carl A. Moses
Manufacturers Mutual Fire Insurance Co.	Providence, R. I.	1885	1885	1900	Harvey T. Freeman	Raymond H. Lord
Philadelphia Manufacturers Mutual Fire Insurance Co.	Philadelphia, Pa.	1889	1889	1901	Harold G. Griffin	George C. Hopson
Protection Mutual Fire Insurance Co.	Chicago, Ill.	1887	1887	1917	John L. Wilds	Herbert J. Janu
What Cheer Mutual Fire Insurance Co.	Providence, R. I.	1873	1874	1900	Ernest Kerr	Royal G. Luther

\*Acting Secretary.

TABLE 1.—*Fire and Marine Insurance Companies Authorized to Transact Business, etc.—Continued*

NAME OF COMPANY		Principal Office	Incorporated	Commenced Business	Admitted to Mass.	President	Secretary
<i>Massachusetts Stock Companies</i>							
Boston Insurance Co.	.	Boston, Mass.	1873	1874	1874	Donald C. Bowersock	Ernest L. Woodside
Employers' Fire Insurance Co., The	.	Boston, Mass.	1921	1921	1921	Edward C. Stone	Franklin P. Horton
Massachusetts Fire and Marine Insurance Co.	.	Boston, Mass.	1910	1910	1910	William H. Koop	Joseph G. Niederlitz
New England Fire Insurance Co.	.	Springfield, Mass.	1919	1920	1920	William A. Hebert	Charles C. Wright
Old Colony Insurance Co.	.	Boston, Mass.	1906	1906	1906	Donald C. Bowersock	Ernest L. Woodside
Sentinel Fire Insurance Co.	.	Springfield, Mass.	1924	1925	1925	William A. Hebert	Charles C. Wright
Springfield Fire and Marine Insurance Co.	.	Springfield, Mass.	1849	1851	1851	William A. Hebert	Charles C. Wright
<i>Stock Companies of Other States</i>							
Aetna Insurance Co.	.	Hartford, Conn.	1819	1819	1856	W. Ross McCain	Frank G. Bush
Agricultural Insurance Co.	.	Watertown, N. Y.	1863	1853	1889	H. W. Tomlinson	W. A. Seaver
Albany Insurance Co.	.	New York, N. Y.	1811	1811	1878	Ronald R. Martin	Frank J. Barry
Allemania Fire Insurance Co. of Pittsburgh, The	.	Pittsburgh, Pa.	1868	1868	1908	G. W. Unverzagt	D. H. Dottery
Alliance Insurance Co. of Philadelphia, The	.	Philadelphia, Pa.	1904	1905	1905	John A. Diemand	J. Kenton Eisenbrey
Allied Fire Insurance Co.	.	Utica, N. Y.	1923	1923	1924	P. DeW. Smyth	John L. Train
American Fire Insurance Co., The	.	Newark, N. J.	1846	1846	1874	P. B. Sommers	Leo E. Kritzman
American Alliance Insurance Co.	.	New York, N. Y.	1897	1897	1897	William H. Koop	Daniel R. Ackerman
American Automobile Fire Insurance Co.	.	St. Louis, Mo.	1927	1928	1928	O. L. Schleyer	Garland Brown
American Aviation & General Insurance Co.	.	Reading, Pa.	1944	1944	1945	H. G. Evans	W. S. Dearolf
American Central Insurance Co. (Mo.)	.	New York, N. Y.	1853	1853	1872	F. W. Koeckert	Donald D. Henry
American Druggists' Fire Insurance Co.	.	Cincinnati, Ohio	1906	1907	1909	J. S. Rutledge	W. P. Starkey
American Eagle Fire Insurance Co.	.	New York, N. Y.	1915	1915	1915	Frank A. Christensen	Wm. E. Lamm, Jr.
American Equitable Insurance Co. of New York	.	New York, N. Y.	1918	1918	1918	William J. Reynolds	Sidney E. Adams
American and Foreign Insurance Co.	.	New York, N. Y.	1896	1897	1927	H. C. Conick	C. A. Nottingham
American National Fire Insurance Co.	.	New York, N. Y.	1914	1916	1922	William H. Koop	Daniel R. Ackerman
American Reserve Insurance Co.	.	Hartford, Conn.	1923	1920	1944	Edward L. Mulvehill	Richard H. Long
American Union Insurance Co.	.	Providence, R. I.	1928	1928	1928	Thomas R. Fletcher	Raymond M. Underwood
Anehor Insurance Co.	.	Hartford, Conn.	1907	1913	1913	S. W. Carey, 3rd	H. E. Hill
Automobile Insurance Co. of Hartford, Conn., The	.	Hartford, Conn.	1925	1925	1925	Morgan B. Brainard	James B. Shinnon
Baltimore American Insurance Co. of New York, The	.	New York, N. Y.	1918	1925	1925	Harold V. Smith	R. Cholmley-Jones
Bankers and Shippers Insurance Co. of New York	.	New York, N. Y.	1919	1919	1919	A. G. Kaufmann	Keneth F. May
Birmingham Fire Insurance Co. of Pennsylvania	.	Pittsburgh, Pa.	1871	1871	1927	George E. Houck	John W. Dillon
Buffalo Insurance Co.	.	Buffalo, N. Y.	1867	1867	1873	Henry Carter	Charles L. Schweis
Calcedonia Insurance Co. (N. Y.)	.	Hartford, Conn.	1897	1898	1898	J. C. Bunn	William Muller
California Insurance Co., The	.	San Francisco, Cal.	1804	1905	1914	Ray F. Gilliams	Charles W. Makin
Camden Fire Insurance Association, The	.	Camden, N. J.	1841	1841	1900	John F. Decker	A. C. Griffin
Capital Fire Insurance Co. of California	.	San Francisco, Cal.	1911	1912	1935	Charles L. Jackson	Walter Williamson
Capital Fire Insurance Co., The	.	Concord, N. H.	1886	1886	1937	Harold V. Smith	Leonard Peterson
Carolina Insurance Co., The	.	New York, N. Y.	1887	1889	1929		



Centennial Insurance Co.	New York, N. Y.	1941	1944	J. A. Bogardus	W. J. Thompson
Central States Fire Insurance Co., The	Wichita, Kansas	1916	1938	Roy E. Eblen	Percy P. Taylor
Central Union Insurance Co.	Hartford, Conn.	1928	1929	Thomas R. Fletcher	Grenville S. Tompkins
Charter Oak Fire Insurance Co., The	Hartford, Conn.	1931	1936	Jesse W. Randall	Robert D. Safford
Church Properties Fire Insurance Corporation, The	New York, N. Y.	1929	1930	Clarence G. Michalis	Robert Worthington
Citizens Insurance Co. of New Jersey	Hartford, Conn.	1929	1930	C. S. Krenner	F. T. Fenn
City of New York Insurance Co.	New York, N. Y.	1905	1905	Harold V. Smith	T. Morgan Williams
Columbia Insurance Co. of New York	New York, N. Y.	1939	1939	Thomas J. Irvine	I. F. Cunningham
Columbia Fire Insurance Co. of Dayton, Ohio, The	Newark, N. J.	1881	1924	Paul B. Sommers	Leo E. Kritzman
Commerce Insurance Co.	Glens Falls, N. Y.	1859	1864	G. Perry Crawford	Alonzo W. Morgan
Commercial Union Fire Insurance Co. of New York, The	New York, N. Y.	1890	1891	F. W. Koedert	A. R. Greer
Commonwealth Insurance Co. of New York, The	New York, N. Y.	1886	1887	George H. Duxbury	R. P. Stockham
Concordia Fire Insurance Co. of Milwaukee, The	Newark, N. J.	1870	1887	John R. Cooney	H. C. Houghton
Connecticut Fire Insurance Co., The	Hartford, Conn.	1850	1856	George C. Long, Jr.	Lee R. Ross
Continental Insurance Co., The	New York, N. Y.	1833	1856	Frank A. Christensen	Wm. E. Lamm, Jr.
County Fire Insurance Co. of Philadelphia	New York, N. Y.	1832	1881	William H. Koop	Joseph G. Niederlitz
Detroit Fire and Marine Insurance Co.	New York, N. Y.	1806	1888	William H. Koop	Joseph G. Niederlitz
Dixie Fire Insurance Co. (N. C.)	Newark, N. J.	1906	1906	Paul B. Sommers	Leo E. Kritzman
Dubuque Fire and Marine Insurance Co.*	Dubuque, Iowa	1946	1946	C. J. Schrup	A. O. Graven
Eagle Fire Co. of New York, The	New York, N. Y.	1806	1923	Everard P. Smith	J. M. Kidd
East and West Insurance Co., The	New Haven, Conn.	1923	1923	Peter J. Berry	W. A. Thomson
Empire State Insurance Co.	Watertown, N. Y.	1928	1928	H. W. Tomlinson	W. A. Seaver
Equitable Fire and Marine Insurance Co. (R. I.)	Hartford, Conn.	1859	1862	George C. Long, Jr.	Percy P. Taylor
Excelsior Insurance Co.	Syracuse, N. Y.	1919	1920	Forrest H. Witmeyer	Henry C. Little
Export Insurance Co.	New York, N. Y.	1923	1923	W. H. Koar	John J. Flood
Farmers' Fire Insurance Co.	York, Pa.	1853	1897	C. M. Kerr, Jr.	W. McConkey Kerr
Federal Insurance Co. (N. J.)	New York, N. Y.	1901	1903	Hendon Chubb	Joseph J. Magrath
Federal Union Insurance Co. (Ill.)	New York, N. Y.	1908	1915	H. C. Conick	C. A. Nottingham
Fidelity and Guaranty Fire Corporation	Baltimore, Md.	1928	1929	Harry F. Ordgen	Frank F. Dorsey
Fidelity-Phoenix Fire Insurance Co.	New York, N. Y.	1910	1910	Frank A. Christensen	Wm. E. Lamm, Jr.
Fire Association of Philadelphia	Philadelphia, Pa.	1820	1817	Frank H. Thomas	A. Irvin Voss
Fremant's Fund Insurance Co.	San Francisco, Cal.	1863	1869	James T. Crafts	W. Stanley Pearce
Fremont's Insurance Co. of Washington and Georgetown	Washington, D. C.	1837	1913	Albert W. Howard	V. M. Hoffman
First National Insurance Co. of Newark, New Jersey	Newark, N. J.	1855	1875	John R. Cooney	H. C. Houghton
Franklin Fire Insurance Co. of America	Seattle, Wash.	1928	1929	H. K. Dent	L. E. Crowe
Franklin National Insurance Co. of Philadelphia, The	Hartford, Conn.	1829	1869	Harold V. Smith	Herbert A. Payne
Fulton Fire Insurance Co. of New York	New York, N. Y.	1925	1925	F. D. Layton	G. Lowe
General Exchange Insurance Co.	New York, N. Y.	1929	1929	F. Elmer Sammons	Edward I. Coffill
General Insurance Co. of America	New York, N. Y.	1925	1925	L. E. K. Lukes	George H. Bartholomew
Gibraltar Fire and Marine Insurance Co., The	Seattle, Wash.	1923	1932	H. K. Dent	L. E. Crowe
Glard Fire and Marine Insurance Co., The (Pa.)	New York, N. Y.	1929	1929	Harold V. Smith	George E. Stroub
Glens Falls Insurance Co.	Newark, N. J.	1833	1872	John R. Cooney	H. C. Houghton
	Glens Falls, N. Y.	1849	1871	G. Perry Crawford	John Kilpatrick

\*The Dubuque Fire and Marine Insurance Company is the successor company to the consolidation of the Dubuque Fire and Marine Insurance Company, Dubuque, Iowa, and the National Reserve Insurance Company, Chicago, Illinois, effective July 1, 1946.

TABLE 1.—*Fire and Marine Insurance Companies Authorized to Transact Business, etc.—Continued*

NAME OF COMPANY	Principal Office	Incorporated	Commenced Business	Admitted to Mass.	President	Secretary
<i>Stock Companies of Other States—Continued</i>						
Globe & Republic Insurance Co. of America (Pa.)	New York, N. Y.	1862	1862	1912	William J. Reynolds	Sidney E. Adams
Globe and Rutgers Fire Insurance Co.	New York, N. Y.	1899	1899	1935	Olin L. Brooks	John R. Van Horne
Granite State Fire Insurance Co.	Portsmouth, N. H.	1835	1885	1899	James D. Smart	Leon A. Robinson
Great African Insurance Co.	New York, N. Y.	1872	1885	1872	William H. Koop	Daniel R. Ackerman
Hanover Fire Insurance Co., The	New York, N. Y.	1852	1852	1859	F. Elmer Sammons	Edward L. Coffill
Hartford Fire Insurance Co.	Hartford, Conn.	1810	1810	1856	C. S. Kremer	F. T. Fenn
Home Insurance Co., The	New York, N. Y.	1853	1853	1856	Harold V. Smith	Herbert C. Taylor
Home Fire and Marine Insurance Co. of California	San Francisco, Cal.	1864	1864	1918	James F. Crafts	W. Stanley Pearce
Homeland Insurance Company of America, The	New York, N. Y.	1927	1927	1927	George H. Duxbury	R. P. Stockham
Homestead Fire Insurance Co., The (Md.)	New York, N. Y.	1922	1922	1926	Harold V. Smith	Harbert A. Payne
Imperial Assurance Co.	New York, N. Y.	1899	1899	1899	Thomas J. Irvine	J. F. Cunningham
Insurance Company of North America	Philadelphia, Pa.	1794	1794	1861	John A. Dienand	J. Kenton Eisenbrey
Insurance Co. of the State of Pennsylvania, The	Philadelphia, Pa.	1794	1794	1903	Olin L. Brooks	Elmer Van Dusen
Inter-Ocean Reinsurance Co.	New York, N. Y.	1918	1920	1920	Roy E. Curran	Karl P. Blaise
Jersey Insurance Co. of New York	Cedar Rapids, Iowa	1938	1938	1938	A. E. Heacock	R. Cholmeley-Jones
Lumbermen's Insurance Co.	New York, N. Y.	1873	1873	1924	Frank H. Thomas	A. Irvin Voss
Manhattan Fire and Marine Insurance Co., The	Philadelphia, Pa.	1923	1924	1924	Chris D. Sheffe	F. W. Maasen
Mechanics and Traders Insurance Co.	Hartford, Conn.	1833	1833	1837	F. D. Layton	G. Lowe
Mercantile Insurance Co. of America, The	New York, N. Y.	1897	1897	1910	George H. Duxbury	R. P. Stockham
Mercants Fire Assurance Corporation of New York	New York, N. Y.	1910	1910	1910	Alfred A. Moser	John A. Sanders
Mercants and Manufacturers Insurance Co. of New York	New York, N. Y.	1938	1938	1938	Joseph M. Byrne, Jr.	Sidney E. Adams
Merchants Fire Insurance Co., The	Denver, Colo.	1907	1907	1942	J. R. Gardner	Hazel O'Neill
Mercury Insurance Co.	St. Paul, Minn.	1925	1925	1925	C. F. Codere	C. A. Dossall
Michigan Fire and Marine Insurance Co.	Springfield, Mass.	1881	1881	1908	William A. Hebert	Stewart H. Manson
Milwaukee Mechanics' Insurance Co.	Newark, N. J.	1852	1852	1885	John R. Cooney	H. C. Houghton
Minneapolis Fire and Marine Insurance Co.	Hartford, Conn.	1902	1902	1907	George W. Holton	Percy P. Taylor
National Fire Insurance Co. of Hartford	Hartford, Conn.	1869	1871	1871	F. D. Layton	G. Lowe
National-Ben Franklin Fire Insurance Co. of Pittsburgh, Pa.	Newark, N. J.	1910	1910	1911	John R. Cooney	H. C. Houghton
National Grange Fire Insurance Co.	Keene, N. H.	1935	1936	1937	O. L. Martin	R. C. Carrick
National Liberty Insurance Co. of America	New York, N. Y.	1859	1859	1859	Harold V. Smith	Raymond E. Minner
National Union Fire Insurance Co.	Pittsburgh, Pa.	1901	1901	1901	J. M. Thomas	F. J. Breen
Newark Fire Insurance Co., The (N. J.)	New York, N. Y.	1811	1811	1877	H. C. Conck	C. A. Nottingham
New Brunswick Fire Insurance Co., The (N. J.)	New York, N. Y.	1826	1826	1877	Harold V. Smith	Harry H. Schulte
New Hampshire Fire Insurance Co.	Manchester, N. H.	1869	1870	1872	James D. Smart	George W. Swallow
New York Fire Insurance Co.	New York, N. Y.	1832	1832	1895	William J. Reynolds	Sidney E. Adams
New York Underwriters Insurance Co.	New York, N. Y.	1925	1926	1925	C. S. Kremer	F. R. Scott

Niagara Fire Insurance Co.	New York, N. Y.	1850	1857	Frank A. Christensen	Wm. E. Lamm, Jr.
North American Fire and Marine Reinsurance Corporation	New York, N. Y.	1940	1940	J. K. Battershill	J. K. Battershill
North River Insurance Co. of New York	New York, N. Y.	1897	1897	George Z. Day	Charles Forsell
North River Insurance Co., The	New York, N. Y.	1897	1897	C. W. Parsons	Royle R. Harrison
Northwestern Fire and Marine Insurance Co.	New York, N. Y.	1822	1822	C. W. Hall	Frederic D. Weld
Northwestern National Insurance Co. of Milwaukee, Wis.	Minneapolis, Minn.	1906	1906	Charles D. James	Herman A. Schmidt
Orient Farmers Insurance Co.	LeRoy, Ohio	1869	1869	C. D. McVay	J. C. Hestand
Orient Insurance Co.	Hartford, Conn.	1848	1848	Gilbert Kingan	C. W. Chappelear
Pacific Fire Insurance Co.	New York, N. Y.	1887	1887	A. E. Heacock	R. C. Holmefey-Jones
Pacific National Fire Insurance Co.	San Francisco, Cal.	1851	1851	John L. Nyford	L. T. Waldron
Patriotic Insurance Co. of America	New York, N. Y.	1911	1915	O. Tregaskis	Charles H. Tiedemann
Paul Revere Fire Insurance Co., The	New York, N. Y.	1923	1923	Harold H. Duxbury	R. P. Stockham
Pennsylvania Fire Insurance Co., The	New York, N. Y.	1877	1937	George H. Duxbury	J. Kenton Eisenbrey
Philadelphia Fire and Marine Insurance Co.	Philadelphia, Pa.	1825	1871	John A. Diemand	A. Irvin Voss
Philadelphia National Insurance Co.	Philadelphia, Pa.	1923	1923	George C. Long, Jr.	Philip W. Scheide
Phoenix Insurance Co., The	Hartford, Conn.	1928	1928	W. Ross McCain	Frank G. Bush
Piedmont Fire Insurance Co. (N. C.)	Hartford, Conn.	1854	1859	John H. Grady	Douglas R. Phillips
Potomac Fire Insurance Co. of the District of Columbia, The	Philadelphia, Pa.	1895	1931	S. W. Carey, 3rd	H. E. Hill
Providence Fire Insurance Co.	Providence, R. I.	1831	1831	Edward W. Elwell	Harry Halprin
Providence Fire Insurance Co. (N. H.)	New York, N. Y.	1799	1872	Gilbert Mather	John J. Buswell
Quaker City Fire and Marine Insurance Co.	Philadelphia, Pa.	1924	1924	H. C. Conick	C. A. Nottingham
Queen Insurance Co. of America	New York, N. Y.	1930	1891	Frank H. Thomas	A. Irvin Voss
Reliance Insurance Co. of Philadelphia, The	Philadelphia, Pa.	1891	1935	J. F. Smith	J. H. Crittenden
Richmond Insurance Co. of New York	West New Brighton, N. Y.	1934	1907	William H. Koop	Daniel R. Ackerman
Rochester American Insurance Co.	New York, N. Y.	1928	1928	Herbert F. Ellen	C. W. Chappelear
Safeguard Fire and Marine Insurance Co. of New York	Hartford, Conn.	1915	1915	Peter J. Berry	Herman L. Wilkens
Seaboard Fire Insurance Co. (N. Y.)	New York, N. Y.	1929	1929	Morgan B. Brainard	C. A. Nottingham
Seaboard Insurance Co. of New Haven, Conn.	New York, N. Y.	1924	1939	George W. Arnett	W. A. Thomson
Security Insurance Co. of New Haven, Conn.	New Haven, Conn.	1841	1874	W. Ross McCain	James B. Sirmmon
Standard Fire Insurance Co.	Trenton, N. J.	1865	1913	H. C. Conick	Richard J. Carey
Standard Insurance Co. of New York	Hartford, Conn.	1922	1922	C. F. Codere	Frank G. Bush
Star Insurance Co. of America	Hartford, Conn.	1896	1915	O. Tregaskis	C. A. Nottingham
Star Insurance Co. of New York	St. Paul, Minn.	1865	1872	A. F. Lafrentz	C. A. DeWitt
St. Paul Fire & Marine Insurance Co.	New York, N. Y.	1929	1930	F. D. Layton	Charles H. Tiedemann
Sun Underwriters Insurance Co. of New York	New York, N. Y.	1945	1946	Jesse W. Randall	C. H. Hall
Surety Fire Insurance Co.	Hartford, Conn.	1935	1925	Thomas J. Irvine	G. Lowe
Transcontinental Insurance Co.	Hartford, Conn.	1925	1925	J. Lester Parsons	Robert D. Safford
Travelers Fire Insurance Co., The	Hartford, Conn.	1923	1925	John T. Byrne	J. F. Cunningham
United Firemen's Insurance Co. of Philadelphia	New York, N. Y.	1860	1910	Hendon Chubb	Royle R. Harrison
United States Fire Insurance Co.	New York, N. Y.	1824	1912	Claude D. Minor	S. Curtis Bird
Universal Insurance Co. (N. J.)	New York, N. Y.	1921	1921	George F. Warch	Joseph J. Magrath
Vigilant Insurance Co.	Richmond, Va.	1939	1941	J. Lester Parsons	Beverly C. Lewis, Jr.
Virginia Fire and Marine Insurance Co.	Richmond, Va.	1832	1906	James F. Crafts	John A. Sanders
Washington Assurance Corporation of New York	New York, N. Y.	1924	1935	W. Ross McCain	C. B. G. Gaillard
Westchester Fire Insurance Co.	New York, N. Y.	1837	1869	Neville Pilling	W. Stanley Pearce
Westchester National Insurance Co.	San Francisco, Cal.	1927	1928		Frank G. Bush
World Fire and Marine Insurance Co., The	Hartford, Conn.	1921	1924		John S. Breckenridge
Zurich Fire Insurance Co. of New York	New York, N. Y.	1929	1941		



TABLE 1.—*Fire and Marine Insurance Companies Authorized to Transact Business, etc.—Concluded*

UNITED STATES BRANCHES, COMPANIES OF OTHER COUNTRIES			Home Office		Incorporated	Commenced Business in U. S.	Admitted to Mass.	Resident Manager or Attorney for United States	
Atlas Assurance Co., Ltd.	.	.	.	London, England	.	1824	1911	Chubb & Son, New York, N. Y.	
Atlas Assurance Company Limited	.	.	.	London, England	.	1808	1890	Ronald R. Martin, New York, N. Y.	
British America Assurance Co., The	.	.	.	Toronto, Canada	.	1874	1893	Crumb & Forster, New York, N. Y.	
British and Foreign Marine Insurance Co., Ltd.	.	.	.	Liverpool, England	.	1863	1880	Frank B. Zeller, New York, N. Y.	
British General Insurance Co., Ltd., The	.	.	.	Liverpool, England	.	1863	1920	F. W. Koeckert, New York, N. Y.	
Caledonian Insurance Co.	.	.	.	Edinburgh, Scotland	.	1904	1891	Raymond T. Sweeney, Hartford, Conn.	
Century Insurance Co., Ltd., The	.	.	.	Edinburgh, Scotland	.	1885	1911	Lawrence J. Tillman, New York, N. Y.	
Commercial Union Assurance Co., Ltd.	.	.	.	London, England	.	1861	1871	F. W. Koeckert, New York, N. Y.	
Eagle Star Insurance Co., Ltd.	.	.	.	London, England	.	1904	1916	Talbot, Bird & Co., Inc., New York, N. Y.	
Indemnity Marine Assurance Co., Ltd., The	.	.	.	London, England	.	1824	1917	Wm. H. McGee & Co., Inc., Attorney, N. Y., N. Y.	
Law Union and Rock Insurance Co., Ltd.	.	.	.	London, England	.	1806	1897	Gilbert Kingan, Hartford, Conn.	
Liverpool and London and Globe Insurance Co., Ltd., The	.	.	.	Liverpool, England	.	1836	1856	(H. C. Conick (Fire) (F. B. Zeller (Marine) New York, N. Y.	
London Assurance, The	.	.	.	London, England	.	1720	1872	Chris D. Sheffe, New York, N. Y.	
London and Lancashire Insurance Co., Ltd., The	.	.	.	London, England	.	1861	1879	Gilbert Kingan, Hartford, Conn.	
London and Scottish Assurance Corporation, Ltd.	.	.	.	London, England	.	1862	1914	E. D. Patton, New York, N. Y.	
Marine Insurance Co., Ltd.	.	.	.	London, England	.	1836	1886	Chubb & Son, New York, N. Y.	
Netherlands Insurance Co., Est. 1845, The	.	.	.	Curacao, Dutch West Indies	.	1845	1913	Raymond T. Sweeney, Hartford, Conn.	
North British and Mercantile Insurance Co., Ltd.	.	.	.	London and Edinburgh	.	1809	1866	George H. Duthury, New York, N. Y.	
Northern Assurance Co., Ltd., The	.	.	.	London, England	.	1836	1876	E. D. Patton, New York, N. Y.	
Norwich Union Fire Insurance Society, Ltd.	.	.	.	Norwich, England	.	1797	1879	Everard P. Smith, New York, N. Y.	
Ocean Marine Insurance Company Limited, The	.	.	.	London, England	.	1869	1903	George H. Duthury, New York, N. Y.	
Pacific Coast Fire Insurance Co., The	.	.	.	Vancouver, B. C.	.	1890	1936	Lawrence J. Tillman, New York, N. Y.	
Palatine Insurance Co., Ltd., The	.	.	.	London, England	.	1900	1901	F. W. Koeckert, New York, N. Y.	
Phoenix Assurance Co., Ltd.	.	.	.	London, England	.	1782	1879	Thomas J. Irvine, New York, N. Y.	
Royal Insurance Co., Ltd.	.	.	.	Liverpool, England	.	1845	1856	(H. C. Conick (Fire) New York, N. Y. (F. B. Zeller (Marine) New York, N. Y.	
Royal Exchange Assurance, The	.	.	.	London, England	.	1720	1891	Edward W. Elwell, New York, N. Y.	
Scottish Union and National Insurance Co., The	.	.	.	Edinburgh, Scotland	.	1824	1880	T. R. Fletcher, Hartford, Conn.	
Sea Insurance Co., Ltd.	.	.	.	Liverpool, England	.	1875	1876	Chubb & Son, New York, N. Y.	
Standard Marine Insurance Co., Ltd.	.	.	.	Liverpool, England	.	1871	1912	(Gilbert Kingan (Fire) (W. J. Roberts & Co., Inc. (Marine), New York, N. Y. (N. Y. (ful) manager)	



TABLE 2.—Income, Disbursements, Premiums, Losses, Assets, Liabilities and Surplus to Policyholders, Dec. 31, 1946

COMPANIES		Income	Disbursements	Premiums	Net Losses Paid	Admitted Assets	Liabilities	Surplus to Policyholders
<i>Massachusetts Mutual Companies Other than Manufacturers'</i>								
Abington	.	\$405,337	\$362,973	\$386,674	\$167,447	\$848,387	\$456,322	\$392,065
Allied American	.	2,020,093	1,406,288	1,971,632	733,238	3,052,447	1,636,199	1,416,248
Associated Merchants	.	57,886	63,040	53,914	29,176	193,410	75,878	127,532
Attleborough	.	50,584	52,660	48,143	26,245	137,338	66,524	77,814
Barnstable County	.	126,536	127,668	106,623	40,298	322,434	145,377	477,057
Berkshire	.	1,127,120	1,072,176	1,076,446	431,490	1,028,945	1,123,441	439,504
Cambridge	.	1,162,970	875,402	1,096,636	341,180	1,702,607	1,209,946	493,061
Dorchester	.	394,440	409,908	367,970	208,859	853,140	518,227	334,913
Federal	.	985,289	921,503	938,383	398,373	1,558,310	1,013,638	544,672
Fitchburg	.	502,898	437,331	467,852	164,620	826,648	545,539	281,109
Groveland	.	7,737	8,423	4,468	3,376	556	327	229
Hingham	.	437,657	374,649	407,756	157,155	1,216,128	551,915	664,213
Holyoke	.	1,577,762	1,365,112	1,435,429	521,142	3,904,785	1,622,592	2,282,193
Lowell	.	253,654	277,173	240,844	137,451	374,503	279,450	95,053
Lumber	.	2,114,369	1,844,036	1,881,804	779,183	5,065,026	1,896,474	3,168,552
Lynn	.	436,898	366,887	409,296	144,509	937,890	427,182	510,708
Merchants and Farmers	.	228,931	243,698	213,653	100,643	494,245	289,932	204,313
Merrimack	.	3,050,397	2,475,329	2,890,812	1,026,867	4,295,659	3,076,891	1,218,768
Middlesex	.	1,763,143	1,461,095	1,698,480	571,569	4,442,936	1,700,286	2,742,650
Mutual Fire Assurance	.	44,032	43,604	23,401	3,636	437,190	67,034	360,156
Newburyport	.	7,238	6,670	3,772	669	82,473	76,929	76,929
Norfolk and Dedham	.	1,324,100	1,100,865	1,248,824	417,957	2,802,516	1,456,155	1,346,361
Pioneer	.	153,815	132,143	152,577	57,937	111,012	86,967	24,045
Quincy	.	2,793,692	2,267,086	2,468,133	861,236	5,817,620	2,867,235	2,950,385
Salem	.	100,555	105,780	92,910	59,659	212,620	137,274	75,346
Traders and Mechanics	.	1,098,517	879,818	1,042,091	376,665	1,834,560	1,020,078	814,482
United Mutual	.	9,346,003	7,831,477	9,031,542	3,613,383	14,486,918	9,829,805	4,657,113
West Newbury	.	6,478	6,431	4,880	2,215	80	51	29
Worcester Mutual	.	1,471,653	1,135,755	1,301,796	474,359	5,326,004	1,609,537	3,716,467
Totals	.	\$33,059,789	\$27,654,680	\$30,996,761	\$11,894,037	\$63,296,387	\$33,721,420	\$29,544,967
<i>Mutual Companies of Other States Other than Manufacturers'</i>								
Atlantic	.	\$11,083,013	\$9,085,235	\$9,268,849	\$3,688,970	\$28,342,977	\$14,545,251	\$13,797,726
Automobile	.	707,272	751,875	561,903	150,806	5,570,923	643,688	4,922,255
Central Manufacturers	.	8,806,339	7,103,663	8,457,816	2,930,362	13,588,912	9,612,525	3,976,387
Employers	.	1,317,021	765,339	1,290,037	347,189	1,940,102	1,257,933	682,169
Gran Dealers	.	6,099,640	4,836,859	5,697,003	1,983,389	6,844,822	5,313,014	1,531,808
Hardware Dealers	.	8,108,959	6,898,980	7,851,897	2,732,569	12,462,591	8,381,393	4,081,198
Hardware Mutual	.	6,115,559	5,647,038	5,851,944	2,165,241	8,616,635	6,302,684	2,313,951



Indiana Lumbermen's	4,520,853	3,735,324	4,181,895	1,591,937	5,936,044	4,127,523	1,808,521
Lumbermen's	3,698,360	3,030,802	3,511,918	1,255,616	5,103,169	3,915,889	1,187,380
Merchants and Merchants	290,764	279,382	233,435	90,817	320,441	3,304,411	1,994,531
Michigan and Business Men's	1,567,971	1,264,209	639,529	200,121	3,273,067	695,512	2,579,555
Millers Mutual	4,637,742	4,264,042	4,426,403	1,770,757	6,225,291	4,330,759	1,772,532
Millers Mutual (Ill.)	3,247,915	2,784,163	3,102,750	1,110,616	5,217,390	2,928,525	2,288,885
Millers Mutual (Pa.)	1,027,156	864,736	936,558	316,500	2,435,786	931,980	1,503,806
Millers Mutual (Texas)	1,999,729	1,804,707	1,929,866	806,638	2,891,286	2,010,695	1,880,591
Millers National	5,459,438	5,035,927	5,243,982	2,249,989	8,396,805	6,338,643	2,658,162
Mill Owners Mutual (Iowa)	3,340,401	2,974,781	3,202,946	1,283,622	4,098,016	3,349,674	748,342
Mutual of Saco	192,213	166,422	169,947	67,506	301,052	90,436	110,616
Mutual Improvement	8,850,279	7,231,554	8,544,158	2,974,932	11,258,329	8,687,583	2,560,746
National Retailers	4,571,157	4,309,621	4,388,249	1,794,034	5,953,493	4,293,358	1,660,135
Northwestern Mutual	13,130,902	10,889,191	12,645,768	4,237,901	17,694,691	14,475,376	3,219,315
Pawtucket	1,843,993	1,541,955	1,750,889	570,006	3,563,951	2,018,984	1,344,947
Pennsylvania Lumbermen's	3,132,954	2,464,283	3,011,383	1,086,444	5,919,014	3,306,411	2,612,603
Pennsylvania Millers	1,985,436	1,577,921	1,833,322	628,793	5,097,881	1,800,485	3,297,396
Phenix	207,082	187,577	186,748	72,654	740,168	283,250	456,918
Providence Mutual	333,479	248,283	206,250	65,601	1,843,778	399,004	1,444,774
Union Mutual	1,185,489	1,281,939	1,042,896	503,138	2,485,860	1,831,300	654,560
Utica (Mutual)	335,900	281,073	319,221	145,456	707,828	383,969	323,859
Vermont	774,953	736,037	712,075	261,652	1,287,863	728,196	559,667
Totals	\$108,631,299	\$92,042,518	\$101,199,617	\$37,301,346	\$178,822,676	\$113,449,481	\$65,373,195
<i>Massachusetts Manufacturers' Mutuals</i>							
Arkwright	\$5,034,981	\$3,951,615	\$4,692,672	\$663,843	\$12,285,788	\$5,841,618	\$6,444,170
Boston Manufacturers	10,225,180	7,769,407	9,406,471	1,525,664	22,932,712	12,745,107	10,187,605
Cotton and Woolen	3,669,098	2,860,877	3,419,723	547,269	8,848,257	4,292,380	4,555,877
Totals	\$18,929,259	\$14,581,899	\$17,518,866	\$2,736,776	\$44,066,757	\$22,879,105	\$21,187,652
<i>Manufacturers' Mutuals of Other States</i>							
Blackstone	\$5,569,198	\$4,094,901	\$5,214,591	\$640,082	\$12,691,300	\$6,668,653	\$6,022,647
Firemen's	8,534,870	6,089,971	7,768,554	1,063,830	16,670,858	9,329,661	7,341,097
Manufacturers Mutual	17,812,352	13,288,594	16,067,205	2,014,395	41,307,015	20,733,782	20,583,238
Philadelphia Manufacturers	1,998,110	1,433,016	1,878,851	263,740	4,132,857	2,333,147	1,793,710
Protection Mutual	2,456,141	1,756,090	2,322,196	240,540	5,307,802	2,888,697	2,419,205
What Cheer	2,553,589	1,941,338	2,397,015	274,061	5,639,069	3,081,515	2,557,554
Totals	\$38,924,260	\$28,603,910	\$35,648,412	\$4,496,648	\$86,749,001	\$45,025,455	\$40,723,546
<i>Massachusetts Stock Companies</i>							
Boston	\$11,357,517	\$9,577,308	\$9,837,346	\$4,175,171	\$33,029,064	\$13,018,449	\$19,010,615
Employers	7,092,360	6,589,274	6,622,808	3,433,262	10,640,933	7,425,902	3,215,031
Massachusetts Fire and Marine	1,250,420	995,588	1,096,777	486,972	4,036,338	1,226,084	2,810,249

TABLE 2.—Income, Disbursements, Premiums, Losses, etc.—Continued

COMPANIES		Income	Disbursements	Net Premiums	Net Losses Paid	Admitted Assets	Liabilities	Surplus to Policyholders
<i>Massachusetts Stock Companies—Concluded</i>								
New England	.	\$961,686	\$816,450	\$838,154	\$369,814	\$8,299,483	\$933,844	\$2,365,639
Old Colony	.	5,373,573	4,045,733	4,818,816	1,499,475	13,774,608	5,246,252	8,528,356
Saturn	.	976,623	802,404	837,144	369,037	3,309,150	936,121	2,373,029
Springfield Fire and Marine	.	30,093,608	25,615,425	28,502,308	12,575,753	51,261,000	31,425,327	19,835,673
Totals	.	\$57,105,787	\$48,442,182	\$52,553,353	\$22,909,504	\$118,350,571	\$60,211,979	\$58,138,592
<i>Stock Companies of Other States</i>								
Aetna	.	\$48,599,471	\$39,730,880	\$46,369,305	\$18,366,444	\$86,136,777	\$57,945,957	\$28,190,820
Agricultural	.	14,230,248	11,584,262	12,808,299	5,240,721	22,347,159	14,889,315	7,457,844
Albany	.	1,128,203	983,429	973,879	445,877	3,775,987	1,225,574	2,550,213
Allennania	.	2,968,490	2,634,958	2,717,343	1,145,609	7,120,072	3,374,511	3,745,561
Allied Fire (Pa.)	.	9,957,156	7,640,643	9,413,169	3,515,601	16,514,228	9,429,663	7,084,565
American (N. J.)	.	800,652	581,897	770,650	245,749	1,481,329	765,076	716,253
American Alliance	.	38,530,010	29,578,023	34,845,616	13,545,686	64,027,172	43,335,073	20,692,099
American Automobile	.	5,068,357	4,215,631	4,507,615	1,934,785	12,661,432	4,923,886	7,737,548
American Aviation	.	5,049,325	4,886,892	4,504,961	2,571,346	7,432,068	5,168,883	2,264,085
American Central	.	2,444,351	1,500,028	2,081,755	775,351	2,583,745	1,722,037	871,708
American Druggists	.	4,988,123	4,230,833	4,750,903	1,926,763	9,432,740	5,740,214	3,742,526
American Eagle	.	655,848	579,901	473,938	199,442	2,449,252	404,335	2,044,917
American Equitable	.	14,684,257	14,747,570	12,673,453	3,667,525	36,140,511	15,079,289	21,061,222
American and Foreign	.	1,264,124	13,174,208	13,305,088	6,044,559	22,242,661	17,683,179	4,559,482
American National	.	3,861,099	3,128,402	3,342,666	1,371,332	10,310,605	4,507,311	5,803,294
American Reserve	.	133,241	83,761	—	—	1,502,401	34,500	1,467,901
American Union	.	4,924,680	4,340,360	4,501,863	2,044,817	7,682,707	5,063,875	2,618,832
Anchor	.	763,714	559,462	583,402	185,113	4,178,302	936,568	3,241,734
Automobile	.	1,647,178	1,324,605	1,540,156	604,328	3,890,123	1,320,113	2,570,010
Baltimore American	.	29,051,685	25,232,633	27,938,376	11,516,326	47,131,571	31,050,892	16,080,679
Bankers and Shippers	.	4,535,038	3,735,798	3,911,652	1,687,590	8,741,415	4,508,414	4,233,001
Birmingham (Pa.)	.	5,101,660	4,472,557	4,556,591	2,064,569	8,693,681	5,197,064	3,496,617
Buffalo	.	534,322	375,051	350,509	127,414	2,744,868	536,559	2,208,309
Caledonian-American	.	4,011,644	3,646,042	3,700,076	1,579,840	8,197,536	4,502,949	3,694,587
California	.	1,072,142	974,747	973,928	456,451	1,937,312	1,208,059	749,253
Camden	.	3,141,217	2,633,359	2,889,463	1,171,365	6,365,590	3,539,505	2,826,085
Capital (Cal.)	.	13,166,003	10,925,288	12,517,717	5,014,874	20,237,542	13,698,950	6,538,592
Capital (N. H.)	.	1,104,017	821,391	908,327	361,153	3,201,790	1,165,172	2,036,618
Carolina	.	1,83,698	68,566	55,918	21,032	556,640	77,905	478,735
Central	.	1,742,168	1,496,986	1,547,131	699,721	3,235,585	1,710,511	1,525,074
Central States	.	2,920,776	1,638,609	1,956,007	850,544	5,225,691	2,884,296	2,341,395
Central Union	.	558,748	74,745	—	—	2,574,629	427,857	2,146,772
	.	322,910	235,079	242,497	83,482	2,126,313	457,837	1,668,476

Charter Oak	.	.	.	.	.	.	1,247,950	875,825	1,179,413	362,129	4,218,468	1,606,563	2,611,905
Church Properties	.	.	.	.	.	.	202,618	154,907	56,607	18,511	880,011	104,812	775,199
Citizens (N. J.)	.	.	.	.	.	.	718,499	766,790	566,389	493,706	4,331,197	792,400	3,538,797
City of New York	.	.	.	.	.	.	3,418,134	2,877,933	2,095,977	1,283,048	6,682,129	3,514,621	3,167,508
Columbia (N. Y.)	.	.	.	.	.	.	1,936,320	1,936,320	2,053,582	874,330	4,417,697	2,513,554	1,904,143
Columbia (Ohio)	.	.	.	.	.	.	1,621,131	1,212,181	1,342,249	522,115	4,728,691	1,462,630	3,266,061
Commerce	.	.	.	.	.	.	3,567,402	2,830,497	3,230,229	1,305,933	7,568,868	3,924,228	3,614,640
Commercial Union (N. Y.)	.	.	.	.	.	.	2,416,711	2,036,581	2,295,529	930,208	4,369,803	2,750,691	1,619,112
Commonwealth	.	.	.	.	.	.	3,224,355	3,023,174	3,318,751	1,371,644	9,643,269	4,182,377	5,460,892
Concordia	.	.	.	.	.	.	3,577,183	3,283,585	3,392,701	1,364,957	6,309,573	3,925,250	2,354,623
Concordia	.	.	.	.	.	.	12,694,913	10,642,633	11,530,423	4,746,039	31,880,107	14,371,895	17,508,212
Continental	.	.	.	.	.	.	44,682,211	35,856,184	37,220,103	15,201,148	157,788,882	51,309,980	106,476,906
County	.	.	.	.	.	.	1,220,428	1,044,985	1,078,904	887,173	3,447,210	1,232,214	2,218,219
Detroit Fire and Marine	.	.	.	.	.	.	2,609,821	1,830,791	1,973,013	863,333	2,942,024	728,561	2,213,463
Dixie	.	.	.	.	.	.	875,483	928,602	671,115	261,058	7,845,470	5,831,433	2,014,037
Dubuque Fire and Marine	.	.	.	.	.	.	10,234,822	2,705,093	1,781,800	1,686,934	7,845,470	5,831,433	1,443,966
Eagle (N. Y.)	.	.	.	.	.	.	1,060,175	1,017,484	956,616	484,031	2,080,281	1,230,315	2,640,016
East and West	.	.	.	.	.	.	2,274,127	1,928,945	2,113,336	927,333	5,128,516	2,488,500	2,153,852
Empire State	.	.	.	.	.	.	3,600,235	2,838,861	3,202,075	1,310,180	5,747,399	3,588,547	2,158,856
Equitable Fire and Marine	.	.	.	.	.	.	2,586,489	2,106,950	2,306,085	949,208	9,670,653	2,716,777	6,953,876
Excelsior	.	.	.	.	.	.	902,062	683,963	766,198	309,994	1,838,901	1,110,459	728,442
Export	.	.	.	.	.	.	710,442	537,887	243,773	39,477	1,389,635	345,847	1,043,788
Farmers (Pa.)	.	.	.	.	.	.	1,354,765	1,235,753	1,254,805	596,995	3,999,497	1,749,912	2,249,585
Federal	.	.	.	.	.	.	10,178,975	7,743,577	9,211,790	3,402,435	33,946,418	12,454,080	21,492,338
Federal Union	.	.	.	.	.	.	2,322,478	1,847,462	2,065,333	828,724	4,907,735	2,626,319	2,281,416
Fidelity and Guaranty	.	.	.	.	.	.	14,439,325	9,843,808	10,827,542	5,263,804	19,301,261	11,446,283	7,854,978
Fidelity Phenix	.	.	.	.	.	.	35,238,803	27,907,806	30,250,697	12,434,886	130,141,818	41,997,779	88,144,039
Fire Association	.	.	.	.	.	.	18,433,691	14,810,923	16,492,755	6,736,059	33,248,179	20,136,916	13,111,263
Fireman's Fund	.	.	.	.	.	.	44,979,679	34,726,322	41,314,296	15,868,919	105,571,156	70,732,725	34,848,431
Firemens (D. C.)	.	.	.	.	.	.	350,709	338,689	261,909	120,467	1,264,270	453,733	810,537
Firemens (N. J.)	.	.	.	.	.	.	31,961,158	29,363,570	28,446,433	11,699,632	56,486,062	38,966,022	17,520,040
First National	.	.	.	.	.	.	20,49,124	1,559,239	1,975,610	650,669	3,875,569	2,482,539	1,393,030
Franklin Fire	.	.	.	.	.	.	14,804,995	12,273,615	12,860,725	5,486,702	26,986,711	15,082,596	11,904,115
Franklin National	.	.	.	.	.	.	1,113,517	931,627	988,505	462,933	1,256,872	1,412,366	4,412,366
Fulton	.	.	.	.	.	.	106,027	19,800	-	9,007,702	20,000	20,000	1,987,702
General Exchange	.	.	.	.	.	.	17,519,262	10,865,631	14,649,003	3,986,564	27,057,471	11,539,398	16,418,273
General Insurance	.	.	.	.	.	.	48,732,178	18,472,178	20,327,622	8,074,245	36,581,839	25,555,304	11,396,635
Gibraltar Fire and Marine	.	.	.	.	.	.	2,777,835	2,138,118	2,157,736	922,532	4,364,789	2,479,304	2,103,485
Girard Fire and Marine	.	.	.	.	.	.	5,530,576	3,044,324	3,923,734	7,400,286	6,029,416	4,407,906	2,291,450
Glens Falls	.	.	.	.	.	.	3,375,098	16,686,424	18,814,629	7,364,937	37,354,883	24,526,757	12,828,170
Globe and Republic	.	.	.	.	.	.	6,588,488	5,390,799	5,543,794	2,518,566	8,714,961	6,752,726	1,962,235
Globe and Rutgers	.	.	.	.	.	.	7,296,962	6,039,454	6,402,528	2,738,065	15,245,602	9,276,611	5,968,991
Granite State	.	.	.	.	.	.	2,890,703	3,253,220	1,385,702	1,393,702	6,191,896	3,715,059	2,476,837
Great American	.	.	.	.	.	.	32,050,519	26,822,067	29,203,744	11,990,180	73,992,659	33,287,311	40,705,348
Hanover	.	.	.	.	.	.	16,640,974	12,942,378	13,871,067	5,737,450	30,362,089	18,552,968	11,809,121
Hartford	.	.	.	.	.	.	86,745,169	68,415,836	81,135,447	30,562,012	208,382,181	92,818,002	115,564,179
Home	.	.	.	.	.	.	87,386,856	95,070,159	40,829,455	177,588,711	110,303,307	67,285,404	87,285,404
Home Fire and Marine	.	.	.	.	.	.	6,154,344	7,381,050	2,841,920	15,645,805	11,104,075	4,541,780	4,541,780



TABLE 2.—Income, Disbursements, Premiums, Losses, etc.—Continued

COMPANIES	Income	Disbursements	Net Premiums	Net Losses Paid	Admitted Assets	Liabilities	Surplus to Policyholders
<i>Stock Companies of Other States—Continued</i>							
Homeland	\$2,376,067	\$2,234,639	\$2,246,100	\$1,048,532	\$4,968,286	\$2,578,444	\$2,389,842
Homestead	2,196,897	1,850,869	1,948,703	867,612	2,186,784	2,166,263	1,909,521
Imperial Assurance	3,017,221	2,395,319	2,632,272	1,079,223	5,267,325	2,983,283	2,284,042
Insurance Co. of North America	59,542,817	51,242,888	49,841,146	20,383,850	196,590,937	68,819,146	127,778,761
Insurance Co. of the State of Pa.	2,708,333	2,303,993	2,336,671	1,079,237	5,564,125	3,332,288	2,631,837
Inter-Ocean	4,311,391	2,542,820	4,064,751	1,719,685	6,447,419	4,409,695	2,637,724
Jersey	3,178,022	2,754,165	2,911,136	1,321,515	3,703,883	3,307,448	2,396,435
Lumbermens (Pa.)	2,927,576	2,351,004	2,567,880	1,050,934	6,783,568	3,195,159	3,588,409
Manhattan Fire and Marine	2,184,531	1,826,157	2,040,321	841,577	4,363,739	2,391,964	1,971,775
Mechanics and Traders	2,293,827	2,057,337	2,141,760	1,003,022	7,530,086	2,719,614	4,810,472
Mercantile	3,874,032	3,383,030	3,615,879	1,437,127	9,168,783	4,303,369	4,865,414
Merchants and Manufacturers	8,529,992	8,947,168	6,457,240	2,401,415	25,754,417	8,407,127	17,287,290
Merchants (Colo.)	3,845,718	3,355,445	3,326,277	1,511,140	6,063,965	4,116,344	1,947,621
Mercury	1,515,405	1,372,704	1,366,162	592,020	3,218,788	2,241,384	977,404
Michigan Fire and Marine	6,396,573	4,973,323	6,040,777	2,438,919	10,333,669	6,496,685	3,836,984
Milwaukee Mechanics	3,582,091	3,030,324	3,352,732	1,479,278	6,393,056	3,678,378	2,714,678
Minneapolis Fire and Marine	9,822,740	8,252,015	9,008,037	3,704,883	16,771,420	10,708,977	6,062,443
National Fire	542,020	60,010	—	—	3,708,806	896,249	2,812,557
National Liberty	30,737,369	28,222,274	28,831,333	13,502,224	66,025,425	36,799,526	29,225,899
National-Ben Franklin	3,532,890	2,941,013	3,318,751	1,364,957	6,197,014	3,962,839	2,234,175
National Grange	298,630	223,590	280,249	85,538	829,622	348,898	480,724
National Liberty	13,530,787	11,040,783	11,687,068	5,003,418	26,727,773	13,770,760	12,957,013
National Union	18,451,824	14,671,992	16,721,034	7,175,394	29,617,000	23,815,511	5,801,489
Newark	7,457,206	5,944,067	6,579,218	2,642,456	15,110,886	8,359,330	6,751,556
New Brunswick	3,724,133	3,161,555	3,190,160	6,306,142	6,306,142	3,655,429	2,650,713
New Hampshire	12,074,108	9,739,819	10,793,264	4,312,829	23,915,650	14,088,523	9,827,127
New York Fire	5,976,891	5,349,992	5,543,812	2,518,566	9,809,891	6,828,358	2,951,533
New York Underwriters	3,464,611	2,959,776	3,077,061	1,518,829	12,437,706	3,828,248	8,599,458
Niagara	17,180,630	18,499,411	15,218,926	5,615,689	49,554,793	15,130,328	25,424,465
North American Fire and Marine	158,261	94,855	110,168	42,546	2,222,350	132,353	2,089,997
Northern (N. Y.)	8,559,271	7,350,212	7,692,886	3,312,064	15,611,547	9,106,073	6,505,474
North River	12,714,866	10,751,681	11,634,565	4,572,933	34,153,871	15,045,803	19,108,068
Northwestern Fire and Marine	1,136,144	1,181,998	1,084,826	597,415	3,751,462	1,284,114	2,467,348
Northwestern National	6,682,312	7,276,061	7,794,054	2,750,229	23,148,115	10,627,112	12,521,003
Ohio Farmers	5,632,402	4,975,034	5,213,733	2,265,515	6,128,249	6,129,045	3,489,204
Orient	2,924,954	2,867,825	2,721,250	1,452,247	7,066,137	3,976,935	3,329,202
Pacific	5,730,527	4,998,044	5,189,451	2,355,403	10,466,876	6,312,294	4,154,582
Pacific National	9,644,471	6,148,860	6,456,365	2,420,579	16,617,522	9,233,436	7,384,086
Patriotic	1,957,479	1,626,342	1,825,764	761,855	4,143,903	2,055,030	2,088,873

Paul Revere	2,239,593	1,865,649	1,913,933	832,070	4,756,274	2,232,484	2,523,789
Pennsylvania	8,598,740	7,350,241	7,964,518	3,112,815	19,907,434	10,333,691	9,573,743
Philadelphia Fire and Marine	32,524,327	9,574,339	14,537,021	3,187,116	34,711,280	11,393,347	23,312,937
Philadelphia National	1,308,164	1,008,714	1,069,630	437,019	3,887,958	1,274,671	2,613,087
Phoenix	21,805,214	18,392,183	19,107,557	7,864,865	81,210,619	24,258,483	56,952,136
Piedmont	3,967,886	2,925,378	3,823,089	1,364,915	5,805,416	1,929,580	1,829,590
Potomac	4,490,767	4,497,929	4,557,954	1,921,275	7,690,820	5,440,060	2,250,760
Providence	14,666,693	12,411,109	13,885,289	5,963,612	25,284,141	14,684,948	10,509,193
Providence Washington	2,114,863	1,926,511	2,019,627	970,132	4,304,822	2,536,899	1,767,923
Quaker City	1,480,459	1,205,082	1,370,046	474,169	2,476,007	1,430,330	1,767,923
Queen	18,955,016	15,319,188	16,932,892	6,811,103	35,098,793	21,833,556	13,259,237
Reliance	2,140,584	1,648,648	1,712,037	700,304	5,682,531	2,139,965	3,472,566
Ridgmont	2,159,901	1,850,480	1,977,884	758,090	6,585,604	2,535,357	4,050,047
Rochester American	2,215,457	1,796,615	1,975,013	863,333	6,173,250	2,167,613	4,005,637
Seaboard	1,257,310	1,200,864	1,133,834	605,103	3,862,137	1,767,371	2,094,766
Seaboard Fire and Marine	2,060,218	1,767,409	1,917,946	874,265	4,106,472	2,484,978	2,094,766
Seaboard Insurance	1,939,373	708,944	809,230	321,548	2,332,435	1,018,520	1,313,915
Security	11,046,212	9,367,315	10,318,054	4,527,567	19,946,165	12,742,499	7,203,670
Standard (Conn.)	4,580,237	3,554,277	4,322,138	1,552,931	9,401,365	5,457,341	3,944,024
Standard (N. J.)	1,552,970	1,392,751	1,389,989	624,142	3,983,888	2,225,340	1,758,548
Standard (N. Y.)	7,588,843	6,181,730	7,349,826	3,049,134	11,869,223	7,907,128	3,962,095
Star	5,433,230	4,330,694	4,921,785	1,961,201	7,274,399	6,112,791	3,161,608
St. Paul Fire and Marine	31,124,825	25,542,404	27,714,424	11,969,551	70,777,983	30,991,913	39,786,070
Sun Underwriters	1,226,111	1,128,255	1,136,981	567,733	2,335,067	1,349,522	985,545
Surety	1,171,396	624,278	1,147,097	240,454	2,506,512	838,238	1,668,274
Transcontinental	1,110,465	935,119	988,505	462,933	5,621,151	1,290,103	4,331,048
Travelers	30,932,675	24,872,605	24,899,182	11,174,445	45,341,872	34,281,349	11,060,523
United Firemen's	3,307,882	2,615,669	2,825,311	1,168,697	5,441,959	3,533,739	1,908,220
United States Fire	21,323,376	17,454,317	19,778,774	7,458,046	55,015,432	27,111,383	27,904,049
Universal	1,751,538	1,593,589	1,611,574	819,792	5,074,941	3,293,826	1,781,115
Vigilant	1,871,737	1,348,062	1,757,311	1,757,311	5,857,116	2,191,190	3,695,926
Virginia Fire and Marine	2,277,182	1,877,743	2,099,476	892,591	3,259,843	2,314,885	1,944,886
Washington Assurance	559,033	385,758	434,361	155,892	4,048,731	4,72,626	2,576,217
Westchester	12,198,317	10,962,296	11,325,326	4,835,726	29,614,908	16,070,849	13,544,059
Western National	3,461,538	2,459,470	2,897,020	1,114,019	8,450,639	4,755,690	3,694,949
World Fire and Marine	4,264,291	3,420,657	4,054,768	1,657,942	9,331,567	4,188,891	5,162,676
Zurich	1,032,493	1,027,866	970,193	527,673	2,858,421	684,900	2,173,521
Totals	\$1,429,655,720	\$1,155,001,712	\$1,252,634,971	\$511,338,581	\$3,065,990,379	\$1,561,098,425	\$1,504,891,954

## United States Branches, Companies of Other Countries

Alliance Assurance	\$2,229,632	\$1,854,993	\$2,008,721	\$814,861	\$5,665,693	\$2,863,787	\$2,801,906
Atlas Assurance	5,826,531	5,207,773	5,570,748	2,555,166	9,917,616	7,147,638	2,769,978
British America	1,463,968	1,071,728	1,367,542	501,713	3,624,459	1,500,710	2,123,749
British and Foreign Marine	3,139,116	2,612,655	2,624,331	1,166,921	6,765,843	3,652,937	3,112,906
British General	734,026	630,892	685,862	277,495	1,556,923	823,693	733,230
Caledonian	4,108,222	3,558,396	3,439,489	1,722,441	5,881,914	4,574,127	1,307,787
Century	3,122,374	2,605,755	2,625,181	1,118,420	6,479,186	3,439,018	3,040,168

TABLE 2.—Income, Disbursements, Premiums, Losses, etc.—Concluded

COMPANIES		Income	Disbursements	Net Premiums	Net Losses Paid	Admitted Assets	Liabilities	Surplus to Policyholders
<i>United States Branches, Companies of Other Countries—Concluded</i>								
Commercial Union Assurance	.	\$11,525,561	\$10,288,108	\$10,539,221	\$4,160,480	\$19,998,007	\$12,742,497	\$7,255,510
Eagle Star	.	1,186,882	1,278,369	984,595	477,891	5,067,310	2,835,110	2,232,200
Indemnity Marine	.	913,350	933,591	866,976	456,014	2,377,965	1,307,366	1,070,599
Law Union and Rock	.	1,026,893	987,499	936,615	485,361	2,565,436	1,472,892	1,092,544
Liverpool and London and Globe	.	18,016,762	14,145,189	16,494,016	6,560,839	28,135,423	20,601,038	7,584,385
London Assurance	.	7,255,611	6,133,679	6,824,915	2,778,894	13,299,155	8,436,152	4,863,003
London and Lancashire	.	4,581,595	4,448,427	4,333,923	2,300,848	8,666,585	6,551,182	2,115,403
London and Scottish	.	571,464	487,948	516,310	235,782	1,768,317	640,305	1,128,012
Marine	.	3,402,985	3,091,567	3,103,979	1,148,062	8,707,274	4,301,309	4,405,965
Netherlands	.	2,467,195	1,672,971	1,821,308	703,534	2,827,174	1,837,103	990,071
North British and Mercantile	.	11,948,376	10,472,504	11,364,039	4,813,494	19,453,013	14,139,881	5,313,132
Northern Assurance	.	8,134,824	7,100,181	7,524,203	3,487,504	11,913,199	9,905,975	2,007,224
Norwich Union	.	5,765,259	5,061,619	4,950,550	2,439,943	8,346,851	6,966,535	1,380,316
Ocean Marine	.	529,791	454,230	472,921	229,829	1,742,661	817,842	924,819
Pacific Coast	.	780,853	621,855	656,295	279,605	2,041,076	863,517	1,177,559
Palatine	.	1,737,277	1,485,173	1,605,466	649,828	3,853,786	1,893,050	1,960,736
Phoenix Assurance	.	5,912,518	5,402,420	5,253,208	2,601,908	9,021,418	6,767,186	2,254,232
Royal Exchange	.	20,262,723	16,145,974	17,529,458	6,962,375	32,304,683	22,370,017	9,934,646
Scottish Union and National	.	4,556,252	4,519,321	4,323,213	2,121,352	8,249,689	6,114,566	2,135,103
Sea	.	5,893,489	5,484,960	5,401,168	2,571,463	9,840,205	6,618,777	3,221,428
Standard Marine	.	3,634,635	2,927,211	2,492,536	1,230,450	8,420,721	4,928,761	3,500,960
State Assurance	.	3,008,506	3,418,312	4,635,511	1,281,218	8,478,890	4,846,807	3,632,083
Sun	.	883,242	879,700	822,190	452,893	1,769,972	1,146,989	622,983
"Switzerland" General	.	7,442,109	6,567,269	6,656,967	3,142,580	10,451,404	8,677,963	1,773,441
Thames and Mersey	.	2,632,646	1,759,823	2,265,403	834,648	3,945,961	2,365,628	1,580,333
Union Assurance	.	1,693,858	1,407,769	1,426,948	608,277	4,065,606	2,111,641	1,953,965
Union of Canton	.	1,701,405	1,455,375	1,605,466	649,328	3,082,097	1,900,509	1,181,588
Union Marine	.	4,073,764	3,871,151	3,405,099	1,332,251	6,903,483	4,371,079	2,532,404
Western Assurance	.	2,041,634	1,713,572	1,697,172	728,165	4,768,972	2,805,096	1,963,876
Yorkshire	.	2,948,187	2,282,095	2,814,667	1,050,764	6,511,865	3,472,065	3,039,800
Totals	.	\$172,889,700	\$146,297,788	\$155,986,267	\$66,301,532	\$303,552,813	\$202,095,344	\$101,457,469





TABLE 3.—Income during 1946

COMPANIES		INTEREST			Increase in			Total
	Net Premiums Written	Mortgages	Stocks and Bonds	All Other Sources	Rents	Book Value and Profit on Sale of Assets	Other Sources	
<i>Massachusetts Mutual Companies Other than Manufacturers'</i>								
Abington	\$386,674	\$138	\$12,353	\$3,633	\$2,400	\$82	\$57	\$405,337
Allied American	1,971,632	—	47,523	136	—	138	664	2,020,093
Associated Merchants	53,914	509	1,713	1,270	480	—	—	57,886
Attleborough	48,143	81	1,616	738	—	—	6	50,584
Barnstable County	106,623	—	16,539	1,280	300	944	850	126,536
Berkshire	1,076,446	490	31,267	2,462	4,800	10,164	11,491	1,137,120
Cambridge	1,096,656	1,615	43,933	2,465	—	18,181	120	1,162,970
Dorchester	367,970	1,901	18,436	656	—	2,117	3,360	394,440
Federal	958,383	—	20,848	50	—	3,167	481	985,289
Fitchburg	467,852	—	9,617	3,821	11,439	7,002	7,002	502,898
Groveland	4,468*	—	25,332	2,355	—	—	3,269	7,737
Hingham	407,756	—	105,478	2,550	800	1,349	65	437,657
Holyoke	1,435,429	—	10,481	—	22,320	10,272	1,713	1,577,762
Lowell	240,844	—	10,481	—	—	2,145	184	253,654
Lynn	1,881,804	—	118,988	398	20,540	33,169	59,470	2,114,369
Merchants and Farmers	409,296	1,267	19,249	230	864	2,338	3,654	436,898
Merrimack	213,653	527	10,921	—	—	2,036	1,794	228,931
Middlesex	2,890,812	3,371	90,000	5,677	15,200	39,429	5,908	3,050,397
Mutual Fire Assurance	1,608,480	10,407	88,969	1,435	13,905	25,332	14,615	1,763,143
Newburyport	23,401	2,862	11,196	32	—	—	6,541	44,032
Norfolk and Dedham	3,772	—	22,215	379	—	705	1,987	7,238
Pioneer	1,248,824	82	67,860	—	4,020	1,327	198	1,324,100
Quincy	152,577	—	436	589	—	—	213	153,815
Salem	2,468,133	—	177,361	—	9,000	138,745	453	2,793,692
Traders and Mechanics	92,910	—	4,165	855	—	3,820	2,625	100,555
United Mutual	1,042,091	120	46,337	—	—	—	6,149	1,098,517
West Newbury	9,031,542	—	285,334	8,737	—	19,836	559	9,346,008
Worcester Mutual	4,880*	—	—	—	—	—	1,598	6,478
	1,301,796	16,320	121,785	—	7,500	8,683	15,569	1,471,653
Totals	\$30,996,761	\$39,690	\$1,389,952	\$39,748	\$113,568	\$329,506	\$150,564	\$33,059,789
<i>Mutual Companies of Other States Other than Manufacturers'</i>								
Atlantic	\$9,268,849	—	\$442,160	\$720	\$441,439	\$523,970	\$405,875	\$11,083,013
Automobile	561,903	—	136,576	1,289	—	5,354	2,150	707,272
Central Manufacturers	8,457,816	\$13,523	259,904	477	15,900	32,425	26,294	8,806,339
Employers	1,290,037	—	23,760	1,112	—	1,531	581	1,317,021
Grain Dealers	5,697,003	1,625	135,428	835	15,667	149,456	99,626	6,099,640
Hardware Dealers	7,851,897	6	163,921	424	—	3,008	149,703	8,168,959
Hardware Mutual	5,851,944	—	161,931	—	44,652	16,193	40,839	6,115,559

Indiana Lumbermen's	4,181,895	1,971	122,743	-	57,044	157,200	4,520,853
Lumbermen's	3,511,918	1,663	104,704	140	19,200	58,477	3,698,360
Manufacturers and Merchants	233,435	-	33,226	2,215	-	21,825	2,258
Merchants and Business Men's	639,529	-	4,827	4,822	-	1,825	83
Michigan Millers	4,426,403	31,602	118,573	10,353	5,525	7,743	837,453
Millers Mutual (Ill.)	3,102,750	360	103,812	-	64,317	11,370	4,637,742
Millers Mutual (Pa.)	936,558	7,217	48,006	1,263	13,535	27,438	3,547,915
Millers Mutual (Texas)	1,929,866	6,844	50,475	1,389	10,320	23,792	1,027,156
Millers National	5,243,962	-	133,128	1,557	7,905	1,999,729	1,999,729
Mill Owners Mutual (Iowa)	3,202,946	1,108	84,066	2,846	430	79,519	5,459,488
Mutual of Saco	169,947	-	4,485	111	11,216	38,130	3,340,401
National Implement	8,544,158	66	204,440	1,111	3,000	2,648	192,213
National Retailers	4,388,249	3,626	94,588	2,273	31,185	65,410	8,550,279
Northwestern Mutual	12,645,768	8,609	353,041	1,316	18,070	12,831	4,571,157
Pawtucket	1,750,889	2,134	72,570	20,365	-	68,728	33,691
Pennsylvania Lumbermen's	3,011,383	7,210	91,432	148	10,892	2,085	1,843,993
Pennsylvania Millers	1,833,322	-	138,772	508	6,024	16,633	3,132,954
Phoenix	186,748	-	17,795	1,982	8,520	4,314	1,985,436
Providence Mutual	206,250	1,270	52,212	694	15,341	487	207,062
Union Mutual	1,042,896	-	69,025	-	-	57,712	333,479
Utica (Mutual)	319,221	1,432	5,168	90	1,915	73,082	1,185,489
Vermont	712,075	-	25,854	525	8,400	7,960	335,900
Totals	\$101,199,617	\$95,153	\$3,293,622	\$56,776	\$810,517	\$1,488,625	\$1,686,989
<i>Massachusetts Manufacturers' Mutuals</i>							
Arkwright	\$4,692,672	-	\$328,563	\$265	-	\$6,065	\$5,034,981
Boston Manufacturers	9,406,471	-	557,383	91	-	84,367	10,225,180
Cotton and Woolen	3,419,723	-	230,138	-	-	17,536	3,669,098
Totals	\$17,518,866	-	\$1,116,084	\$356	-	\$107,968	\$18,929,259
<i>Manufacturers' Mutuals of Other States</i>							
Blackstone	\$5,214,591	-	\$305,274	\$934	-	\$47,671	\$5,569,198
Fremont's	7,768,554	\$1,899	406,385	150	\$800	357,282	8,534,870
Manufacturers Mutual	16,067,205	-	961,110	1,406	-	751,587	17,812,342
Philadelphia Manufacturers	1,878,851	-	107,425	-	-	11,742	1,998,110
Protection Mutual	2,322,196	-	126,352	-	-	6,793	2,456,141
What Cheer	2,397,015	-	131,775	343	-	23,252	2,553,589
Totals	\$35,648,412	\$1,899	\$2,038,321	\$2,833	\$600	\$1,198,327	\$38,924,260
<i>Massachusetts Stock Companies</i>							
Boston	\$9,837,346	\$584	\$966,263	\$790	\$99,081	\$438,642	\$11,357,571
Employers	6,622,808	-	239,038	3,051	-	226,707	7,092,360

\*Assessments on premium notes.



TABLE 3.—*Income during 1946—Continued*

COMPANIES			INTEREST		Rents	Increase in Book Value and Profit on Sale of Assets	Other Sources	Total
Net Premiums Written	Mortgages	Stocks and Bonds	All Other Sources					
<i>Massachusetts Stock Companies—Concluded</i>								
Massachusetts Fire and Marine	\$1,096,777	—	\$144,836	—	—	\$8,772	\$35	\$1,250,420
New England	838,154	\$4,602	88,746	\$142	—	29,964	78	961,686
Old Colony	4,818,816	—	425,218	—	—	123,202	6,337	5,373,573
Sentinel	837,144	—	99,837	148	—	39,416	78	976,623
Springfield Fire and Marine	28,502,308	25,365	1,226,521	4,520	\$31,635	293,627	9,632	30,093,608
Totals	\$52,553,353	\$30,551	\$3,190,459	\$8,651	\$130,716	\$1,160,330	\$31,727	\$57,105,787
<i>Stock Companies of Other States</i>								
Aetna	\$46,369,305	—	\$1,841,268	\$5,961	\$214,563	\$149,261	\$19,113	\$48,599,471
Agricultural	12,808,299	\$78,406	552,157	7,725	35,113	619,362	129,186	14,230,248
Albany	973,879	7,911	101,753	492	4,179	39,249	740	1,128,203
Allennania	2,717,343	11,870	183,897	449	16,645	19,758	18,528	2,968,490
Alliance (Pa.)	9,413,169	—	503,787	3,771	—	15,514	20,915	9,937,156
Allied Fire (Utica)	770,650	840	26,301	14	488	1,579	780	800,652
American (N. J.)	34,845,616	41,127	1,515,151	18,612	375,575	949,083	784,846	38,530,010
American Alliance	4,557,615	—	467,853	—	—	43,315	174	5,068,957
American Automobile	4,504,961	—	90,807	16	—	53,828	1,000,313	5,649,925
American Aviation	2,081,755	—	47,689	—	—	8,559	306,348	2,444,351
American Central	4,750,903	—	226,397	2,156	—	7,883	784	4,988,123
American Drugists	473,938	756	39,134	—	141,403	579	38	653,848
American Eagle	12,673,453	687	912,121	3,658	820,285	254,980	19,073	14,684,257
American Equitable	13,305,088	—	669,506	1,940	—	1,059,784	227,806	15,264,124
American and Foreign	3,342,666	—	272,657	4,693	—	240,523	560	3,861,099
American National	—	—	51,356	—	—	14,472	67,413	133,241
American Reserve	4,501,863	—	218,383	—	—	135,696	62,998	4,924,680
American Union	583,402	4,359	107,420	5,740	—	67,949	544	763,714
Anchor	1,540,156	—	98,753	10	—	8,086	173	1,647,178
Automobile	27,938,576	285	1,062,407	4,292	2,208	38,180	5,737	29,031,685
Baltimore American	3,911,652	—	294,094	220	5,457	323,026	589	4,535,038
Bankers and Shippers	4,556,591	—	214,418	636	—	329,215	800	5,101,660
Birmingham (Pa.)	350,509	8,740	69,875	360	2,900	100,433	1,505	534,322
Buffalo	3,700,076	16,267	179,725	3,725	70,144	36,967	4,740	4,011,644
Calcedonian-American	973,928	739	49,366	352	—	44,586	3,171	1,072,142
California	2,889,463	262	144,075	849	95,088	3,157	8,323	3,141,217
Camden	12,517,717	28,736	505,616	597	30,537	71,511	11,289	13,166,003
Capital	908,327	—	68,636	11	—	126,941	102	1,104,017
Capital (Cal.)	55,918	784	13,471	396	—	13,116	13	83,698
Capital (N. H.)	1,547,131	433	107,536	6	—	86,865	197	1,742,168
Centennial	1,956,007	—	58,721	16	—	29,727	176,305	2,220,776
Central States	—	262	71,423	50	—	24,508	62,505	158,748

Central Union	242,497	54,308	8	26,074	23	322,910
Charter Oak	1,179,413	68,537	—	—	—	1,247,950
Church Properties	56,607	23,597	—	22,563	99,851	202,618
Citizens (N. J.)	566,389	124,085	366	10,771	16,888	718,499
City of New York	2,995,977	128,521	301	190,048	3,287	3,418,134
Columbia (N. Y.)	2,053,582	125,528	735	170,192	152,460	2,502,497
Columbia (Ohio)	1,342,249	145,431	889	131,068	370	1,621,713
Commerce	3,320,229	190,549	1,347	106,627	1,209	3,567,402
Commercial Union (N. Y.)	2,295,529	108,022	973	14,989	1,560	2,416,711
Commonwealth	3,392,701	254,972	938	82,890	3,047	3,673,698
Concordia	3,318,751	155,145	684	14,989	3,047	3,577,183
Connecticut	11,530,423	919,562	1,025	235,518	165	12,694,913
Continental	37,220,103	5,243,635	43,108	1,138,365	980,525	44,682,211
County	1,098,904	119,247	—	7,642	35	1,229,428
Detroit Fire and Marine	1,975,013	161,814	3,378	3,600	69	2,160,821
Dixie	671,125	71,372	71	79,637	308	875,483
Dubuque Fire and Marine	1,781,800	100,013	181	93,052	8,273,221*	10,234,852
Eagle (N. Y.)	956,616	76,590	—	26,482	487	1,060,175
East and West	2,113,336	139,609	370	19,114	409	2,274,127
Empire State	2,020,075	167,816	33	230,176	135	3,600,235
Equitable Fire and Marine	2,306,085	262,500	635	16,278	33	2,586,489
Excelsior	706,198	36,046	215	15,290	81,559	902,062
Export	245,773	93,865	—	442,804	442,804	710,442
Farmers (Pa.)	1,294,805	75,284	840	7,760	1,955	1,354,765
Federal	9,211,790	760,699	3,112	47,328	156,045	10,178,978
Federal Union	2,065,333	110,606	995	145,310	1,432,478	2,322,478
Fidelity and Guaranty	10,827,542	322,496	245	30,056	3,003,337	14,338,325
Fidelity Phenix	30,250,697	4,391,415	23,618	46,975	3,897	35,238,803
Fire Association	16,492,755	897,091	15,638	184,670	830,647	18,433,691
Fireman's Fund	41,314,296	2,684,000	3,685	352,845	24,615	44,979,679
Firemans (D. C.)	261,909	26,881	362	8,753	430	350,709
Fremens (N. J.)	28,446,433	1,814,567	11,979	542,593	830,766	31,961,158
First National	1,975,610	67,723	311	4,536	944	2,049,124
Franklin Fire	12,860,725	918,058	1,273	983,375	5,044	14,804,995
Franklin National	988,505	118,724	459	5,048	781	1,113,517
Fulton	—	57,042	—	48,985	—	106,027
General Exchange	14,649,003	556,664	419	594,250	1,718,926	17,519,262
General Insurance	20,327,622	952,568	11,500	528,124	712,605	22,777,835
Gibraltar Fire and Marine	2,157,726	147,318	27	225,174	331	2,530,576
Glad Fire and Marine	3,323,784	164,681	622	24,820	205	3,575,098
Glens Falls	18,814,629	843,994	24,975	192,014	475,298	20,467,849
Globe and Republic	5,543,794	263,264	2,742	120,483	2,985	6,538,488
Globe and Rutgers	6,402,528	380,726	77	497,414	16,254	7,296,952
Globe State	3,253,220	174,288	30	8,914	3,443,653	3,443,653
Granite American	29,203,744	2,227,616	39,315	258,458	321,386	32,050,519
Great American	20,203,744	731,846	2,937	1,065,425	16,640,974	16,640,974
Hanover	13,871,067	1,381,846	57,815	259,382	80,919	86,745,169
Hartford	81,155,447	4,662,150	57,815	525,425	2,002,756	108,401,854
Home	95,070,159	7,163	65,888	845,181	326,115	8,268,926
Home Fire and Marine	7,381,050	398,705	338	162,698	6,568	8,268,926
Homeland	2,246,100	119,193	1,041	3,165	—	2,376,067

\*Includes assets of the Dubuque Fire and Marine Insurance Company and the National Reserve Insurance Company which merged as of June 30, 1946.

TABLE 3.—Income during 1946—Continued

COMPANIES	Net Premiums Written	INTEREST			Rents	Increase in Book Value and Profit on Sale of Assets	Other Sources	Total
		Mortgages	Stocks and Bonds	All Other Sources				
Stock Companies of Other States—Continued								
Homestead	\$1,948,703	—	\$134,391	\$8	—	\$113,581	\$214	\$2,196,897
Imperial Assurance	2,622,272	—	141,660	140	—	101,248	151,901	3,017,221
Insurance Co. of North America	49,841,146	\$410	6,165,157	24,141	\$781,179	2,138,983	591,801	59,542,817
Insurance Co. of the State of Pa.	2,356,671	—	177,917	281	4,920	162,542	6,002	2,708,333
Inter-Ocean	4,084,751	16,311	123,013	2,328	13,891	89,435	1,662	4,311,391
Jersey	2,911,136	447	134,372	407	—	131,640	—	3,178,022
Lumbermen's (Pa.)	2,567,880	2,334	186,453	283	—	164,937	5,689	2,927,576
Manhattan Fire and Marine	2,040,321	—	103,260	271	—	10,667	—	2,154,519
Mechanics and Traders	2,141,760	—	146,002	51	—	5,651	363	2,293,827
Mercantile	3,615,879	—	242,084	498	—	6,981	8,590	3,874,032
Merchants (N. Y.)	6,437,240	5,102	637,362	300	5,669	321,180	1,073,139	8,529,992
Merchants and Manufacturers	3,326,277	—	186,603	168	—	324,254	8,416	3,845,718
Merchants (Colo.)	1,366,162	15,179	70,384	117	—	54	63,509	1,515,405
Mercury	6,040,777	—	291,710	298	288	20,240	43,260	6,396,573
Michigan Fire and Marine	3,352,732	1,437	173,258	3,053	—	51,300	311	3,582,091
Milwaukee Mechanics	9,008,037	30,930	416,977	2,144	81,140	281,937	1,575	9,822,740
Minneapolis Fire and Marine	—	103	89,797	—	—	11,809	440,311	542,020
National Fire	28,831,383	9,684	1,400,603	4,064	104,766	382,365	4,504	30,737,369
National Fire Franklin	3,318,751	8,833	153,393	595	24,844	25,967	4,504	3,532,890
National-Ben Franklin	280,249	856	16,246	184	—	1,035	60	298,630
National Change	11,687,068	771	883,098	618	—	956,995	2,839	13,530,787
National Liberty	16,721,034	20,536	604,777	18,019	83,335	525,309	478,814	18,451,824
National Union	6,579,218	692	387,369	175	—	438,866	886	7,437,206
Newark	3,190,160	—	210,879	266	5,340	317,305	183	3,724,133
New Brunswick	10,938,264	—	753,486	583	7,500	25,138	494,135	12,074,106
New Hampshire	5,543,812	—	317,227	391	—	93,687	21,774	5,976,891
New York Fire	3,077,061	489	309,941	2,207	—	21,909	53,004	3,464,611
New York Underwriters	15,218,926	—	1,494,789	2,478	—	443,166	1,271	17,160,630
Niagara	110,168	—	48,093	—	—	—	—	158,261
North American Fire and Marine	7,692,886	481	399,266	113	—	483,233	—	8,569,271
Northern (N. Y.)	11,634,565	3,403	1,035,187	3,767	—	37,448	496	12,714,866
North River	1,084,826	1,582	115,896	—	3,224	21,350	89,266	1,316,144
Northwestern Fire and Marine	7,794,054	19,000	740,686	353	52,360	73,877	1,982	8,682,312
Northwestern National	5,213,733	1,238	177,780	2,402	72,319	70,256	4,674	5,542,402
Ohio Farmers	2,721,250	—	118,713	4,229	48,600	—	32,162	2,924,954
Orient	5,189,451	202	271,758	724	952	267,440	—	5,730,527
Pacific	6,456,365	—	377,370	192	41,100	502,484	2,266,960	9,644,471
Pacific National	1,825,764	—	121,252	54	—	10,350	59	1,957,479
Patriotic	1,913,933	1,515	167,475	6	—	156,357	307	2,239,593
Paul Revere	—	—	—	—	—	—	—	—
Pennsylvania	7,964,518	—	532,852	1,787	—	47,620	51,963	8,598,740



Philadelphia Fire and Marine	14,537,021	-	804,843	3,345	27,732	17,151,386	32,524,327
Philadelphia National	1,089,630	-	118,358	28	82,700	37,061	1,308,164
Phoenix	19,107,557	6,435	2,195,190	29,162	360,271	274	21,805,214
Piedmont	3,823,089	23	104,307	-14	16,590	650	3,967,886
Potomac	4,557,954	587	186,206	141	120,921	34,958	4,900,767
Providence Washington	13,835,289	-	624,877	455	100,693	57,461	14,646,693
Provident	2,019,627	-	92,679	18	1,980	559	2,114,863
Quaker City	1,370,046	-	64,570	-	44,625	1,480,459	1,480,459
Queen	16,932,892	-	890,111	1,559	1,128,091	2,363	18,955,016
Reliance	1,712,037	1,112	167,673	410	198,676	52,593	2,140,584
Richmond	1,877,884	7,199	207,761	322	57,841	4,551	2,159,901
Rochester American	1,975,013	-	223,750	-	16,625	69	2,215,457
Safeguard	1,133,854	-	113,031	-	10,425	-	1,257,310
Seaboard Fire and Marine	1,917,946	-	80,088	765	9,406	13	2,008,218
Seaboard Insurance	809,230	82	53,461	-	96,478	122	959,373
Security	10,318,054	19,096	424,504	3,637	38,446	212,425	11,046,312
Standard (Conn.)	4,392,138	-	237,074	929	10,617	8,579	4,580,237
Standard (N. Y.)	1,389,989	12,601	97,726	2,809	39,814	3,868	1,562,370
Standard (N. Y.)	7,339,826	-	215,995	474	21,657	891	7,583,943
Star	4,921,785	-	226,754	1,897	282,315	479	5,433,230
St. Paul Fire and Marine	27,714,424	11,364	2,447,151	41,724	299,995	462,211	31,124,825
Sun Underwriters	1,136,981	-	57,840	3,076	9,558	18,336	1,226,111
Surety	1,147,097	-	24,168	-	51	80	1,171,396
Transcontinental	988,505	-	116,086	549	5,186	139	1,110,465
Travelers	24,899,182	-	812,046	310	76,868	5,144,269	30,932,675
United Firemen's	2,825,311	3,314	129,184	786	223,675	123,866	3,307,882
United States Fire	19,778,774	3,474	1,458,777	24,612	56,841	898	21,323,376
Universal	1,611,574	-	91,879	-	17,399	30,686	1,751,538
Vigilant	1,757,311	-	78,057	271	9,600	26,498	1,871,737
Virginia Fire and Marine	2,099,476	122	101,618	-	69,282	184	2,277,182
Washington Assurance	434,361	3,097	80,653	-	40,922	-	559,033
Westchester	11,325,326	7,526	811,827	20,874	30,959	1,805	12,198,317
Western National	2,897,020	-	231,107	265	100,230	282,916	3,461,538
World Fire and Marine	4,054,768	-	207,535	548	820	620	4,264,291
Zurich	970,193	-	59,861	-	2,142	297	1,032,493
Totals	\$1,252,634,971	\$571,427	\$82,193,089	\$608,985	\$34,409,812	\$53,266,737	\$1,429,655,730
United States Branches, Companies of Other Countries							
Alliance Assurance	\$2,008,721	-	\$130,806	-	\$28,928	\$64,177	\$2,232,632
Atlas Assurance	5,570,748	-	197,011	\$79	53,689	5,004	5,826,531
British America	1,367,542	-	98,203	219	-	-	1,465,968
British and Foreign Marine	2,624,331	-	151,392	150	205,168	158,075	3,139,116
British General	685,862	-	43,866	1,287	1,938	1,073	734,026
Caledonian	2,459,189	-	102,549	70	12,551	515,363	4,108,922
Century	2,463,181	-	208,196	33	270,776	8,188	3,192,374
Commercial Union Assurance	10,533,221	-	366,343	18,289	16,893	382,837	11,523,561
Eagle Star	984,595	-	130,166	-	26,762	45,339	1,186,582

TABLE 3.—Income during 1946—Concluded

COMPANIES		INTEREST			Rents	Increase in Book Value and Profit on Sale of Assets	Other Sources	Total
		Mortgages	Stocks and Bonds	All Other Sources				
<i>United States Branches, Companies of Other Countries—Concluded</i>								
Indemnity Marine	.		\$46,362	\$12	—	\$4,370	—	\$513,350
Law Union and Rock	.	—	72,378	435	—	764,704	\$13,095	1,026,893
Liverpool and London and Globe	.	—	643,449	2,243	—	12,783	112,350	18,016,762
London Assurance	.	\$293	307,701	2,078	—	23,336	107,831	7,255,611
London and Lancashire	.	—	224,306	—	—	—	30	4,581,595
London and Scottish	.	—	43,954	794	—	4,906	5,500	571,464
Marine	.	—	167,047	214	—	8,752	122,993	3,402,985
Netherlands	.	—	46,124	115	—	2,075	597,573	2,467,195
North British and Mercantile	.	—	503,335	1,518	—	33,600	45,884	11,948,376
Northern Assurance	.	—	246,184	1,175	\$109,342	157,920	96,000	8,134,824
Norwich Union	.	—	208,806	15	17,500	4,905	583,483	5,765,259
Ocean Marine	.	—	37,784	—	—	—	19,086	529,791
Pacific Coast	.	—	56,455	12	—	68,091	—	780,853
Palatine	.	—	115,121	2,033	—	7,457	7,200	1,737,277
Phoenix Assurance	.	—	228,667	299	19,305	226,228	184,811	5,912,518
Royal	.	—	696,816	1,142	100,837	947,942	986,528	20,262,723
Royal Exchange	.	—	182,151	28	—	1,151	49,709	4,556,252
Scottish Union and National	.	10,155	236,813	119	13,500	127,418	14,316	5,893,489
Sea	.	—	164,310	134	—	7,693	59,962	3,634,635
Standard Marine	.	—	160,358	5,100	—	7,636	301,901	5,108,506
State Assurance	.	—	49,639	—	—	11,371	42	883,242
Sun	.	—	218,286	202	—	104,633	462,021	7,442,109
"Switzerland" General	.	—	65,600	1,482	—	2,587	297,574	2,632,646
Thames and Mersey	.	—	96,679	2,551	—	98,853	68,827	1,693,858
Union Assurance	.	—	85,052	263	—	6,965	3,650	1,701,405
Union of Canton	.	—	126,778	—	—	25,561	518,326	4,073,784
Union Marine	.	—	108,224	16	—	132,805	103,417	2,041,684
Western Assurance	.	—	133,244	236	—	—	40	2,948,187
Yorkshire	.	61	102,757	782	—	65,183	134,347	3,631,185
Totals	.	\$10,509	\$6,802,912	\$43,125	\$486,642	\$3,475,630	\$6,084,615	\$172,889,700

<i>Recapitulation</i>									
Massachusetts mutual companies other than manufacturers' (29 companies)	\$30,996,761	\$39,690	\$1,389,952	\$39,748	\$113,568	\$329,506	\$150,564	\$33,059,789	
Mutual companies of other states other than manufacturers' (29 companies)	101,199,617	95,153	3,293,622	56,776	810,517	1,488,625	1,686,989	108,631,299	
Massachusetts manufacturers' mutuals (3 companies)	17,518,866	—	1,116,084	356	—	107,968	185,985	18,929,259	
Manufacturers' mutuals of other states (6 companies)	35,648,412	1,899	2,038,321	2,833	600	1,198,327	33,868	38,924,260	
Massachusetts stock companies (7 companies)	32,553,353	30,551	3,190,459	8,651	130,716	1,160,330	31,727	57,105,787	
Stock companies of other states (157 companies)	1,252,634,371	571,427	82,193,089	608,985	5,970,709	34,409,812	53,266,727	1,429,655,720	
United States branches, companies of other countries (38 companies)	155,986,267	10,509	6,802,912	43,125	486,642	3,475,630	6,084,615	172,889,700	
Totals (269 companies)	\$1,646,538,247	\$749,229	\$100,024,439	\$760,474	\$7,512,752	\$42,170,198	\$61,440,475	\$1,859,195,814	



TABLE 4.—*Net Premiums Written during 1946*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, and growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>Massachusetts Mutual Companies</i>													
<i>Other than Manufacturers</i>													
Abington	\$316,618	\$32,370	\$1,192	\$916	\$50	\$117	-	\$35,386	-	\$25	-	-	-
Allied American	259,704	39,744	2,384	2,401	460	107	-	1,537,724	-	6,509	\$127,338	-	-\$4,739
Associated Merchants	48,765	2,563	-	143	-	-	-	1,385	-	1,058	-	-	-
Attleborough	39,111	3,253	-	4	-	-	-	5,775	-	-	-	-	-
Barnstable County	98,802	7,821	-	-	-	-	-	-	-	-	-	-	-
Berkshire	781,089	69,945	2,158	4,640	1,099	238	-	253,345	-	26,316	2	-	-82,686
Cambridge	836,900	97,995	2,552	2,171	228	127	-	156,683	-	-	-	-	-
Dorchester	314,462	27,788	-17	1,141	116	8	-	33,980	-	-	-	-	-9,508
Federal	535,722	59,858	697	3,644	1,144	706	-	308,891	-	61,861	3,070	-	-17,210
Fitchburg	296,786	24,485	87	1,009	-	198	-	145,286	-	-	1	-	-
Groveland	4,468*	-	-	-	-	-	-	-	-	-	-	-	-
Hingham	368,091	38,412	154	972	-16	77	-	-	-	-	1	-	65
Holyoke	869,235	102,999	1,993	2,957	-	413	-	457,832	-	-	-	-	-
Lowell	130,376	9,741	137	169	-9	39	-	100,391	-	-	-	-	-
Lumber	1,540,897	143,780	19,497	11,672	2,762	3,479	-	101,977	-	31,017	45	-	21,969
Lynn	248,294	24,257	147	580	1	85	-	143,072	-	-	1	-	-7,141
Merchants and Farmers	193,069	28,739	16	274	-10	297	-	48,469	-	-	-	-	-
Merrimack	2,009,550	283,776	19,221	5,936	1,327	866	-	568,051	-	440	25	-	-53,211
Middlesex	993,091	97,027	584	2,323	3	338	-	543,675	-	-	2	-	-28,563
Mutual Fire Assurance	20,191	3,210	-	-	-	-	-	-	-	-	-	-	-
Newburyport	3,772	-	-	-	-	-	-	-	-	-	-	-	-
Norfolk and Dedham	993,888	128,213	10,671	3,712	987	351	-	109,830	-	691	171	-	340
Pioneer	1,703	1,703	-	-	-	-	-	118,995	-	1,628	-	-	-
Quincy	1,853,134	170,721	1,576	13,966	-	312	-	428,424	-	-	-	-	-
Salon	68,634	6,001	20	110	1	22	-	18,122	-	-	-	-	-
Traders and Mechanics	763,590	69,460	926	6,370	-113	169	-	201,685	-	-	4	-	-
United Mutual	4,485,801	728,461	34,690	38,237	11,551	29,114	-	2,480,461	-	1,178,117	45,110	-	-
West Newbury	4,880*	-	-	-	-	-	-	-	-	-	-	-	-
Worcester Mutual	796,370	110,884	649	6,455	3,299	323	-	383,794	-	-	22	-	-
Totals:	\$18,911,241	\$2,308,215	\$100,114	\$109,822	\$22,850	\$37,316	-	\$8,184,433	-	\$1,307,662	\$175,792	-	-\$160,684
<i>Mutual Companies of Other States</i>													
<i>Other than Manufacturers</i>													
Atlantic Mutual	\$1,571,460	\$176,331	\$3,782	\$31,603	\$6,846	\$2,352	-	\$251,827	\$4,970,837	\$1,473,064	-	\$291,081	\$489,666
Automobile	-	-	-	-	-	-	-	561,903	-	-	-	-	-
Central Manufacturers	4,940,443	948,114	62,975	28,602	25,130	17,139	-	1,630,407	170,538	671,488	-	-	-37,020

Employers	424,637	111,790	3,124	1,191	743	153	668,559	71,409	\$9,307	-	-	-676
Grain Dealers	4,028,410	634,999	129,290	15,273	8,326	3,716	653,790	264,177	14,586	-	-	-55,564
Hardware Dealers	5,630,921	1,087,722	26,139	9,696	5,737	1,939	824,155	208,097	1,944	-	-	-4,053
Hardware Mutual	4,080,339	634,318	29,578	6,719	1,822	6,480	968,585	108,930	1,940	-	-	-46,706
Indiana Lumbermen's	2,890,039	589,115	40,932	11,400	7,407	2,040	507,200	133,761	-	-	-	26,281
Lumbermen's	2,293,589	490,549	57,875	10,658	6,150	3,828	498,429	94,984	29,275	-	-	-797
Manufacturers and Merchants	164,951	15,149	-	-	-	49	54,083	-	-	-	-	-
Merchants and Business Men's	599,828	33,661	3,311	2,100	7	-	61	561	-	-	-	-
Millers	3,417,853	559,987	79,927	17,124	7,687	7,906	252,616	68,556	1,237	-	-	14,410
Millers Mutual (Ill.)	2,298,741	343,766	111,431	9,369	4,613	2,955	272,881	86,434	3,843	-	-	-1,283
Millers Mutual (Pa.)	901,633	91,189	18,259	5,248	2,869	1,875	340	10,327	-	-	-	1,817
Millers Mutual (Texas)	1,128,193	411,592	37,840	3,532	8,995	1,504	306,650	16,210	-	-	-	15,260
Millers National	3,373,978	545,367	101,799	10,535	4,133	8,706	156,693	876,257	2,681	-	-	13,399
Mill Owners Mutual (Iowa)	2,440,768	421,606	62,177	13,767	4,235	2,804	110	256,829	-	-	-	-
Mutual of Saco	110,433	6,106	22	51	11	-	53,306	10	-	-	-	-1,984
Mutual Improvement	6,219,236	1,174,796	30,985	11,532	6,240	2,134	829,577	270,291	1,391	-	-	-99,334
National Retailers	3,139,614	471,587	41,477	13,826	7,575	5,275	367,559	397,538	43,132	-	-	-
Northwestern Mutual	10,009,454	1,687,896	92,967	20,164	6,423	7,406	105,022	716,436	-	-	-	-
Pawtucket	1,100,063	151,611	3,660	3,438	453	-	491,162	-	22	-	-	-
Pennsylvania Lumbermen's	2,550,794	279,817	30,642	14,787	19,299	3,176	82,833	29,967	68	-	-	-5,190
Pennsylvania Millers	1,603,184	170,573	29,491	9,485	4,727	3,053	85	17,422	492	-	-	-637
Phoenix	131,961	12,119	-	-	-	39	43,266	-	-	-	-	-3,798
Providence Mutual	209,953	-	-	-	-	95	-	-	-	-	-	-
Union Mutual	776,012	183,221	12,814	6,686	447	1,886	-	1,594	60,241	-	-	-
Utica (Mutual)	223,717	18,054	613	304	-	-	39,429	36,896	169	-	-	-
Vermont	665,986	18,259	111	-75	-1	-	27,371	-	-	-	-	474
Totals:	\$66,800,740	\$11,269,315	\$1,011,761	\$257,005	\$139,930	\$87,141	\$9,647,694	\$5,289,179	\$170,328	\$5,931,238	\$291,081	\$304,205
<i>Massachusetts Manufacturers' Mutuals</i>												
Arkwright	\$4,692,672	-	-	-	-	-	-	-	-	-	-	-
Boston Manufacturers	9,406,471	-	-	-	-	-	-	-	-	-	-	-
Cotton and Woolen	3,419,723	-	-	-	-	-	-	-	-	-	-	-
Totals:	\$17,518,866	-	-	-	-	-	-	-	-	-	-	-
<i>Manufacturers' Mutuals of Other States</i>												
Blackstone	\$5,214,591	-	-	-	-	-	-	-	-	-	-	-
Freemans	7,768,594	-	-	-	-	-	-	-	-	-	-	-
Manufacturers Mutual	16,067,205	-	-	-	-	-	-	-	-	-	-	-
Philadelphia Manufacturers	1,878,851	-	-	-	-	-	-	-	-	-	-	-
Protection Mutual	2,322,196	-	-	-	-	-	-	-	-	-	-	-
What Cheer	2,397,015	-	-	-	-	-	-	-	-	-	-	-
Totals:	\$35,648,412	-	-	-	-	-	-	-	-	-	-	-

\*Assessments on premium notes

TABLE 4.—*Net Premiums Written during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earth-quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>Massachusetts Stock Companies</i>													
Boston	\$5,258,163	\$905,198	\$63,049	\$24,029	\$21,147	\$7,994	—	\$1,258,168	\$1,272,354	\$979,248	—\$15	\$41,245	\$6,766
Employers	2,362,663	428,424	26,084	7,942	16,298	6,885	—	2,877,888	—	869,301	27,323	—	—
Mass. Fire and Marine	751,294	108,042	14,939	6,279	7,061	3,077	\$59,675	80,193	—	47,210	19,007	—	—
New England	496,968	85,445	11,031	2,374	3,304	856	61,620	100,684	5,759	62,202	4,451	2,745	715
Old Colony	2,680,412	434,346	43,846	14,282	14,530	3,737	—	562,946	607,567	436,752	16	17,482	2,900
Sentinel	496,968	85,445	11,055	2,374	3,308	856	61,620	99,646	5,759	62,202	4,451	2,745	715
Springfield Fire and Marine	16,896,923	2,905,137	375,880	80,713	112,432	29,087	2,095,084	3,424,277	195,791	2,114,926	154,335	93,342	24,321
<b>Totals:</b>	<b>\$28,943,391</b>	<b>\$4,952,037</b>	<b>\$545,884</b>	<b>\$137,993</b>	<b>\$173,140</b>	<b>\$52,492</b>	<b>\$2,277,999</b>	<b>\$8,403,892</b>	<b>\$2,067,230</b>	<b>\$4,571,841</b>	<b>\$209,568</b>	<b>\$157,559</b>	<b>\$35,417</b>
<i>Stock Companies of Other States</i>													
Aetna	\$24,621,779	\$3,975,088	\$751,593	\$130,491	\$280,316	\$72,492	\$1,891,165	\$4,603,630	\$3,084,146	\$5,367,381	\$244,119	\$1,326,401	\$20,701
Agricultural	7,389,809	1,182,089	126,089	37,533	38,298	10,184	30,283	1,966,531	1,138,895	714,006	91,369	73,217	—
Albany	613,905	112,235	8,273	1,404	4,963	3,240	—	178,919	—	54,070	140	—	—
Allentown	1,067,337	344,751	19,105	6,350	4,963	8,261	51,414	218,918	225,170	168,969	50	4,024	—6
Alliance (Pa.)	5,063,724	677,906	54,643	18,162	12,083	1,323	317,666	1,231,977	326,249	1,547,299	38,338	56,951	16,854
Allied Fire (Utica)	349,200	48,374	8,817	4,902	—	—	—	370,039	1,802,657	3,029,718	88,396	170,168	3,044
American (N. J.)	20,492,366	3,869,150	512,817	84,762	168,253	82,787	1,047,062	3,561,436	1,663,520	230,073	95,045	292	—
American Alliance	2,855,535	425,564	57,211	21,861	22,074	9,130	298,372	4,115,118	—	384,843	—	—	—
American Automobile	—	—	—	—	—	—	—	1,360,210	—	32,896	177,362	—	—
American Aviation	379,916	65,206	2,141	162	—	4,162	—	760,113	—	582,944	13,627	—	184
American Central	2,747,046	566,615	42,500	16,596	16,482	4,796	—	—	—	—	—	—	—
American Drogists	449,310	24,628	—	—	—	—	—	—	—	—	—	—	—
American Eagle	6,940,515	1,019,951	107,955	67,667	32,289	15,012	139,269	1,753,922	1,490,912	992,410	49,340	64,211	—
American Equitable	9,735,701	1,431,970	113,839	41,999	32,585	24,851	346,096	797,550	138,486	629,887	12,945	5,169	—
American and Foreign	1,779,071	16,176	16,176	14,607	16,528	8,200	901	326,603	595,342	175,094	51,763	74,843	—
American National	—	—	—	—	—	—	—	—	—	—	—	—	—
American Reserve	3,443,913	354,090	63,307	13,112	12,664	20,367	160,442	98,881	157,756	147,419	29,912	—	—
American Union	471,868	102,530	5,320	597	2,824	—	—	—	—	261	34	—	—
Anchor	726,697	109,915	5,740	3,848	6,588	726	19,930	197,940	180,307	279,495	30	8,440	—
Automobile	1,164,565	151,7394	86,550	25,481	55,722	11,906	—	8,695,005	3,129,416	5,193,252	211,269	845,031	2,965
Baltimore American	2,401,467	380,413	56,983	55,515	6,175	8,463	—	594,881	97,598	299,314	—	7,816	3,067
Bankers and Shippers	2,464,481	510,083	34,441	18,096	5,212	11,379	—	1,232,587	35,306	244,955	51	—	—
Birmingham (Pa.)	27,631	20,381	52	134	420	—	—	—	—	514	—	—	—
Bufalo	321,601	27,631	52	134	420	—	—	—	—	514	—	—	—
Central National	2,394,065	471,686	17,983	6,293	20,623	10,887	—	641,187	37,361	99,986	556	—	—
Caledonian-American	681,327	94,621	4,835	4,208	3,661	7,766	—	151,672	151,672	25,273	—	—	—
California	1,667,640	345,475	25,912	10,118	10,049	2,923	—	463,472	—	358,453	8,309	—	112



Camden	6,963,687	1,195,887	84,475	32,537	37,934	16,386	173,967	2,191,229	362,656	1,320,442	121,431	17,086
Capital (Cal.)	555,960	88,599	5,055	4,565	5,160	2,563	282	102,063	70,351	48,637	16,182	8,903
Capital (N. H.)	41,450	3,801	—	—	—	10	—	10,816	—	—	—	—
Carolina	859,898	139,545	19,323	20,359	2,255	3,111	—	396,271	—	104,745	—	—
Centennial	270,137	43,479	3,465	3,734	6,665	6,665	—	29,700	1,198,633	389,497	—	5,662
Central States	—	—	—	—	—	—	—	—	—	—	—	—
Central Union	209,895	30,856	3,991	339	716	—	—	—	—	—	7	—
Charter Oak	803,856	163,284	7,406	3,093	6,461	617	—	—	—	183,686	9,057	—
Church Properties	50,590	4,011	2,009	—	—	—	—	—	—	—	—	—
Citizens (N. J.)	35,964	7,634	—	276	—	—	—	68,575	90,507	38,989	1,206	15,096
City of New York	1,955,948	316,968	45,075	46,271	5,144	7,063	—	396,502	45,184	171,841	85,018	1,001
Columbia (N. Y.)	1,212,820	121,998	12,924	8,452	3,753	2,923	—	379,867	183,947	183,947	—	2,556
Columbia (Ohio)	857,109	162,001	21,822	3,607	7,160	3,523	44,556	151,550	—	30,559	142	130
Commerce	1,723,304	278,890	22,736	6,699	10,690	3,329	209	532,327	317,095	326,254	15,318	58,298
Commercial Union (N. Y.)	1,319,304	275,660	20,633	8,039	7,989	2,302	—	370,432	130,903	254,363	6,047	90
Commonwealth	1,997,693	379,719	23,449	8,766	8,379	2,802	—	565,285	130,903	314,786	7,511	5,496
Concordia	1,896,932	350,322	34,526	3,185	7,436	4,073	715	670,069	126,371	198,443	5,972	11,167
Connecticut	6,956,098	1,071,974	90,385	37,400	41,516	13,036	103,891	1,185,430	606,117	1,905,390	85,443	71,543
Continental	21,300,552	3,217,118	994,466	107,876	147,714	127,604	1,258,617	4,496,702	2,767,777	2,497,728	100,069	294,410
County	738,421	108,042	14,339	6,279	7,061	3,077	59,675	80,193	—	47,210	19,007	—
Detroit Fire and Marine	1,317,876	193,161	26,381	10,651	11,476	4,903	119,349	159,377	—	93,225	38,014	—
Dixie	428,555	81,046	10,911	1,804	3,580	1,761	22,278	75,775	—	45,279	71	65
Dubuque Fire and Marine	716,192	107,349	9,484	4,164	8,788	3,492	—	506,363	39,300	386,418	126	—
Eagle (N. Y.)	643,994	109,946	5,736	2,165	3,120	3,676	—	133,817	—	54,036	—	—
East and West	1,242,886	211,588	19,422	7,010	7,274	5,825	118	360,213	70,528	205,303	28,898	5,173
Empire State	1,847,451	295,772	31,522	9,833	9,575	4,796	7,571	491,633	284,724	178,502	22,842	18,304
Equitable Fire and Marine	1,251,220	214,365	18,117	7,480	8,303	3,007	20,778	237,058	121,223	393,078	17,089	14,309
Excelsior	577,371	94,407	2,381	244	2,393	868	—	86,975	—	1,559	—	—
Export	28,932	6,733	1,207	2	1	—	—	—	13,060	161,303	—	32,535
Farmers (Pa.)	1,087,695	148,750	11,992	4,241	7,506	398	—	—	—	—	31	—
Federal	2,028,888	274,433	24,265	4,510	11,897	4,814	—	2,958,489	2,402,782	1,166,587	110,992	174,163
Federal Union	1,278,707	203,779	11,026	10,499	11,879	5,894	648	234,746	141,774	110,742	37,219	27,820
Fidelity and Guaranty	4,874,463	59,550	5,950	17,660	29,908	8,398	—	3,365,142	144	1,131,650	120,762	190,360
Fidelity Phenix	16,323,909	2,526,067	838,989	70,671	117,200	96,334	872,462	4,218,426	2,688,107	2,208,103	100,069	190,360
Fire Association	9,780,074	1,461,659	64,389	57,624	27,867	27,867	—	2,550,605	757,330	1,710,192	75,892	152,762
Fireman's Fund	16,249,706	2,519,365	169,352	59,652	109,974	56,181	393,104	4,961,594	7,431,488	6,035,564	127,398	3,280,734
Firemen's (D. C.)	241,236	30,673	—	—	—	—	—	—	—	—	—	—
Firemen's (N. J.)	3,079,898	293,940	63,737	27,290	63,737	34,911	6,127	5,748,080	1,083,184	1,700,941	51,186	95,714
First National	1,372,779	503,802	12,245	549	4,969	2,350	—	7,73,370	398	—	—	148
Franklin Fire	7,803,489	1,204,404	182,754	175,732	19,343	26,879	—	1,322,994	542,212	1,529,904	43,423	9,711
Franklin National	589,062	97,043	24,785	2,436	1,130	—	—	—	5,903	79,875	2,291	1,275
Fulton	—	—	—	—	—	—	—	—	—	—	—	—
General Exchange	—	—	—	—	—	—	—	14,649,003	—	—	—	—
General Insurance	12,077,030	2,695,927	128,240	32,068	35,696	223,952	—	2,821,641	649,187	1,626,704	41,329	639
Granger Fire and Marine	1,318,492	218,717	30,564	31,464	3,479	4,850	—	396,281	—	157,171	—	1,738
Guard Fire and Marine	1,301,966	339,321	34,526	3,185	7,436	4,073	715	670,669	126,371	198,443	5,972	11,167
Globe Falls	9,766,389	128,834	37,958	60,378	18,864	1,182	—	3,017,654	1,796,873	1,848,774	86,799	380,536
Globe and Republic	4,650,549	47,433	13,581	10,355	14,206	332,312	—	55,203	55,203	2,154	—	—
Globe and Rutgers	596,654	1,500	64,555	17,500	15,603	20,339	312,298	727,220	624,917	262,453	5,394	60,798
Globe and Rutgers	3,654,954	9,192	—	—	—	—	—	—	—	162,831	25	—

TABLE 4.—*Net Premiums Written during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado Windstorm, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Comotion and Explosion	Earth- quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transporta- tion	Aircraft	Ocean Marine (War Risk only)	All Other
Stock Companies of Other States —Continued													
Granite State . . . . .	\$2,256,969	\$295,866	\$22,917	\$5,863	\$6,888	\$2,934	\$2,327,305	\$517,110	\$1,682,616	\$144,627	\$46	\$208,188	—
Great American . . . . .	16,303,791	2,540,237	327,342	105,686	92,062	28,683	—	3,097,022	1,753,958	1,753,958	741,274	\$908,188	—
Hanover . . . . .	7,809,113	1,318,811	193,026	35,904	61,406	35,223	—	2,171,531	1,014,832	1,120,938	45,605	64,533	—
Hartford . . . . .	42,950,444	7,638,873	1,378,148	132,766	195,177	79,323	2,368,474	13,401,511	2,913,682	7,641,809	236,401	2,043,963	\$154,926
Home . . . . .	55,625,718	9,229,957	1,843,405	1,227,713	1,378,148	194,879	6,828,737	7,269,767	3,734,218	8,599,041	—	513,130	67,470
Home Fire and Marine . . . . .	3,857,397	556,223	37,430	13,378	24,280	12,404	66,919	1,098,417	874,293	710,066	15,074	385,969	—
Homeland . . . . .	1,322,022	261,941	16,345	1,845	4,347	189	—	313,183	87,884	220,165	6,284	3,678	8,259
Homestead . . . . .	1,096,007	177,449	23,240	25,912	2,859	3,978	—	396,281	45,184	170,743	—	3,619	1,431
Imperial Assurance . . . . .	1,579,473	271,878	15,710	8,144	4,906	3,746	—	467,256	—	166,328	104,831	—	—
Insurance Co. of No. America . . . . .	18,200,970	3,171,749	125,182	144,012	212,185	48,186	1,829,189	4,985,277	8,085,845	8,537,468	497,551	789,147	3,214,385
Insurance Co. of the State of Pa. . . . .	1,256,700	259,259	38,810	5,042	4,979	7,503	124,919	265,734	—	393,619	106	—	—
Inter-Ocean . . . . .	2,547,411	546,612	165,159	5,625	30,730	30,229	315,020	67,233	98,106	258,626	—	—	—
Jersey . . . . .	2,547,411	325,887	22,004	11,561	3,330	7,270	—	787,486	22,557	156,499	32	—	—
Lumbermens (Pa.) . . . . .	1,515,850	293,865	10,302	9,220	8,538	4,459	—	376,097	109,282	173,630	12,143	14,494	—
Manhattan Fire and Marine . . . . .	1,396,587	230,386	14,138	4,935	5,756	6,512	—	275,379	—	106,528	—	—	—
Mechanics and Traders . . . . .	1,276,301	210,259	53,701	5,278	9,306	2,449	—	390,388	12,790	173,062	4,963	2,763	—
Mercantile . . . . .	2,078,296	365,081	23,636	16,012	15,125	932	—	588,368	130,962	399,938	3,075	5,496	18,958
Mercantile (N. Y.) . . . . .	4,034,329	882,320	61,783	4,769	5,188	16,592	—	795,073	476,702	124,623	57,892	26,991	478
Merchants and Manufacturers . . . . .	2,433,930	357,992	28,460	10,500	8,149	6,213	86,524	199,387	33,122	157,472	3,236	1,292	—
Merchants (Colo.) . . . . .	919,693	263,508	15,927	1,047	1,530	2,913	—	135,049	—	26,491	4	—	—
Mercury . . . . .	3,112,332	545,995	96,265	15,400	28,455	13,071	350,685	1,188,365	23,034	690,208	17,802	10,981	—
Michigan Fire and Marine . . . . .	1,987,873	341,781	44,219	9,496	13,324	3,422	246,480	1,402,734	—	248,815	16,209	30,310	—
Milwaukee Mechanics . . . . .	5,148,815	975,301	93,715	8,045	20,183	11,055	1,940	1,820,225	343,008	538,631	—	—	—
Minneapolis Fire and Marine . . . . .	17,180,977	2,830,409	722,892	71,054	125,275	32,965	—	5,261,950	172,177	2,329,682	66,805	—	—
National Fire . . . . .	1,898,932	339,321	34,526	3,185	7,436	4,073	715	670,009	126,372	198,443	5,972	11,167	—
National Ben Franklin . . . . .	735,422	—	—	—	—	—	—	201,167	—	5,680	—	—	—
National Grange . . . . .	7,643,341	1,204,635	179,575	175,802	19,404	26,821	—	1,322,439	263,876	815,351	—	21,132	9,712
National Liberty . . . . .	10,364,244	1,638,660	143,216	39,981	61,957	14,774	199,120	1,757,681	370,942	1,893,522	231,043	—	—106
National Union . . . . .	4,109,572	637,916	38,396	32,865	37,187	18,450	2,027	765,361	423,493	345,696	116,511	53,444	2,556
Newark . . . . .	1,952,196	316,807	43,045	46,271	5,131	7,099	—	594,411	45,184	171,841	—	3,619	—
New Brunswick . . . . .	7,234,391	1,040,250	94,103	24,291	49,209	26,471	—	1,200,692	435,719	559,942	120,045	27,551	—
New Hampshire . . . . .	4,056,367	596,634	47,433	17,500	13,581	10,355	144,206	332,312	262,453	332,312	5,384	2,154	—
New York Fire . . . . .	1,767,910	278,889	22,810	6,334	8,670	6,727	27,295	443,091	301,691	162,419	—	50,320	905
New York Underwriters . . . . .	9,739,673	1,429,405	111,127	60,279	39,888	31,279	316,220	2,680,469	—	793,469	—	17,117	—
Niagara . . . . .	83,115	11,889	963	638	468	544	—	—	—	4,499	4,231	—	675
North American Fire and Marine . . . . .	4,366,169	955,268	88,747	10,863	16,547	9,378	—	2,011,673	—	238,532	34	—	—
Northern (N. Y.) . . . . .	6,448,975	1,227,446	117,406	31,968	30,720	41,815	431,747	633,458	1,514,003	888,786	80,985	186,004	1,252

Northwestern Fire and Marine	607,241	95,028	17,535	1,426	1,792	1,012	-	170,033	75,423	97,472	3,015	12,580	1,314
Northwestern National	4,897,571	1,275,554	125,910	3,637	3,637	6,922	-	997,663	141,463	338,288	-	5,229	-
Ohio Farmers	2,752,438	608,937	85,485	2,567	3,234	7,065	915	1,662,370	-	90,722	-	-	-
Orient	1,797,568	391,146	21,832	4,444	5,690	1,612	-	416,464	-	81,763	-	-	882
Pacific	2,806,770	580,928	39,224	20,609	5,936	12,960	-	1,403,779	40,210	278,977	58	-	-
Pacific National	3,604,468	1,053,629	50,009	11,250	10,620	44,628	-22	1,403,779	198,576	664,332	-	2,693	-
Pauline	1,010,826	137,094	16,336	3,967	4,781	3,843	-	816,182	-	202,596	-	-	-
Pauline Revere	1,176,413	27,018	27,763	3,067	3,067	4,268	-	445,742	-	70,843	579	-	1,533
Pennsylvania	9,003,556	1,018,915	62,635	17,820	40,332	7,751	-	1,947,589	292,925	556,042	19,389	10,992	3,619
Philadelphia Fire and Marine	4,976,990	1,847,809	166,929	51,381	72,204	17,516	319,957	1,423,590	214,602	506,042	37,197	91,424	17,702
Philadelphia National	631,284	4,293	91,444	3,842	3,557	1,858	-	1,936,787	4,534	110,703	5,059	6,039	13,359
Phoenix	1,776,415	150,112	61,076	1,076	68,707	24,917	172,162	1,964,526	1,004,423	326,932	141,591	113,558	1,869
Piedmont	364,174	27,127	1,875	1,875	11,649	3,629	101,433	1,054,072	45,003	400,067	24	-	-
Providence	2,151,667	364,174	27,127	2,974	6,062	8,802	-	1,833,440	93	822,026	-	-	-
Providence Washington	2,113,820	961,514	18,907	29,475	27,851	13,242	179,366	2,209,673	1,524,533	2,736,182	431	75,961	-
Quaker City	438,953	74,876	7,474	3,386	7,487	6,302	-	302,076	180,309	30,874	30,874	-	-
Queen	10,788,146	1,647,951	94,022	84,901	96,067	47,664	5,237	612,904	163,104	30,451	60	34,365	-
Reliance	1,010,084	155,910	6,868	6,147	5,692	2,972	-	1,834,984	930,922	884,442	300,886	117,570	-
Rochester	1,336,546	268,741	16,783	5,143	8,118	5,602	-	250,731	72,855	182,420	8,095	9,663	-
Rochester American	1,317,576	193,161	26,381	10,651	11,476	4,903	51,596	186,257	-	1,010	84	-	24
Safeguard	748,809	162,978	9,097	1,862	2,371	707	119,349	159,977	-	93,225	38,014	-	-
Seaboard Fire and Marine	1,050,418	159,455	6,063	3,309	6,139	649	-	173,658	-	34,068	-51	-	355
Seaboard Insurance	500,364	79,740	4,550	4,108	4,648	2,306	254	234,812	282,727	169,367	470	3,937	-
Security	6,068,210	1,033,045	94,826	34,226	35,514	23,245	577	91,357	56,316	43,399	14,564	7,124	-
Standard (N. J.)	2,698,818	580,324	27,545	1,886	19,649	1,313	-	1,509,684	344,342	1,002,363	141,090	25,259	673
Standard (N. Y.)	1,114,443	249,192	25,348	1,006	-	-	-	213,523	-	741,405	30,181	-	194
Star	3,421,255	607,596	45,978	36,536	49,250	6,605	83,524	1,554,145	923,581	618,357	934	-	-
Star	3,113,375	498,157	28,308	25,562	28,923	14,350	1,577	571,555	254,407	284,883	90,619	-	-
St. Paul Fire and Marine	9,981,293	1,787,061	466,239	52,063	55,113	30,002	2,084,539	5,053,347	4,581,525	1,071,926	116,966	236,884	4,547
Sun Underwriters	604,052	98,413	16,210	2,181	1,680	1,548	-	215,146	-	187,514	237	-	-
Surety	-	-	-	-	-	-	-	1,086,508	-	60,589	-	-	-
Transcontinental	589,062	97,043	24,785	2,436	4,295	1,130	-	180,410	5,903	79,857	2,291	1,275	-
Travelers	15,273,261	3,139,442	140,768	58,776	122,757	11,730	-	2,490,433	-	3,490,032	172,073	-	-
United Firemen's	1,666,380	300,991	17,291	9,009	5,379	4,138	-	520,433	-	184,794	116,966	-	-
United States Fire	12,351,264	2,309,490	273,728	57,928	53,351	91,757	462,976	839,748	1,944,082	1,071,926	81,063	-	-
United	1,555	-	-	-	-	-	-	572,272	803,039	173,877	-	60,811	-
Vigant	217,381	29,404	2,600	483	1,271	516	-	465,152	681,338	208,957	27,742	66,437	-
Virginia Fire and Marine	1,410,312	249,364	19,533	5,032	5,783	3,563	-	388,505	-	10,256	8	-	-
Washington Assurance	206,917	70,193	122	319	30	-	-	196,780	-	-	-	-	-
Westchester	5,572,228	1,007,895	126,556	23,400	16,373	23,668	590,186	693,265	1,922,959	1,070,343	80,664	195,730	1,059
Western National	1,266,211	196,314	13,211	8,569	23,619	4,378	-	386,618	437,146	385,033	7,510	192,984	-
World Fire and Marine	1,984,763	274,820	36,076	9,450	24,900	4,635	357,988	630,239	229,766	467,412	711	-	4,008
Zurich	-	-	-	-	-	-	-	970,193	-	-	-	-	-

Totals:	\$673,129,941	\$116,539,365	\$13,990,823	\$4,540,622	\$3,836,999	\$2,302,871	\$28,083,103	\$191,481,766	\$76,709,185	\$118,477,219	\$6,447,922	\$13,375,352	\$3,769,803
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TABLE 4.—*Net Premiums Written during 1946—Concluded*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>United States Branches, Companies of Other Countries</i>												
Alliance Assurance	—	—	—	—	—	—	—	\$1,036,334	\$380,671	\$49,963	\$95,839	—
Atlas Assurance	\$3,246,376	\$590,332	\$43,432	\$17,566	\$7,406	—	\$445,914	\$777,696	324,713	734	14,574	—
British America	682,401	92,461	10,608	5,095	5,711	—	993,877	204,408	181,302	60	17,980	\$-5
British and Foreign Marine	1,000,727	159,479	9,099	8,216	4,613	\$51,342	50,985	183,714	119,737	29,128	90,825	—
British General	392,558	82,950	6,224	2,431	7,093	507	111,252	—	85,309	1,994	—	27
Caledonian	2,348,380	288,276	51,119	14,893	12,164	—	26,090	46,866	85,845	2,029	37,329	—
Century	1,318,066	168,994	20,719	11,340	9,684	—	200,956	552,088	231,590	23,526	78,217	—
Commercial Union Assurance	5,326,768	1,117,946	84,746	32,917	9,427	—	1,492,568	722,476	1,484,587	26,589	201,673	426
Eagle Star	—30	—	—	—	—	—	—	750,527	173,300	—	60,798	—
Indemnity Marine	—	—	—	—	—	—	—	538,371	289,401	—	39,264	—
Law Union and Rock	628,652	130,382	7,241	1,451	537	—	138,927	—	27,254	60	—	284
Liverpool and London and Globe	10,452,362	1,665,671	95,033	85,815	48,176	5,293	1,918,792	827,207	888,120	304,222	106,225	—
London Assurance	3,371,247	537,569	32,644	11,468	14,615	—	565,718	1,436,505	633,229	49,963	158,615	—
London and Lancashire	2,826,972	624,556	35,086	7,653	2,685	—	660,202	25,277	126,459	—	—	1,348
London and Scottish	387,048	71,015	3,335	1,898	1,003	—	51,411	—	—	—	—	—
Marine	—	—	—	—	—	—	445,914	1,674,733	835,616	49,959	97,757	—
Netherlands	1,197,543	175,161	11,308	6,036	16,146	—	250,426	104,079	44,203	909	10,612	—
North British and Mercantile	6,652,275	946,775	138,529	35,711	21,776	—	687,173	371,704	1,815,131	600,616	16,393	33,353
Northern Assurance	4,510,115	816,669	38,349	21,828	23,994	—	591,225	524,577	945,937	317,174	17,793	—
Norwich Union	2,826,259	549,732	28,651	15,584	18,380	—	545,452	623,162	272,231	629	60,643	—
Ocean Marine	—	—	—	—	—	—	27	411,351	44,501	—	16,542	—
Pacific Coast	329,516	42,248	5,180	2,135	2,421	—	50,239	138,172	57,988	5,957	19,554	—
Palatine	919,986	104,151	14,602	5,718	1,672	—	259,893	—	199,054	4,633	—	63
Phoenix Assurance	2,895,566	564,361	28,338	16,637	7,941	—	1,105,214	—	373,622	254,076	—	—
Royal	10,896,991	1,736,550	29,077	101,232	50,236	5,519	2,400,443	1,148,221	946,130	317,168	138,375	—
Royal Exchange	2,349,201	423,554	34,626	11,238	15,109	—	494,302	630,779	288,531	317,247	43,316	—
Scottish Union and National	3,470,292	572,197	36,027	13,347	22,777	—	953,226	—	403,019	423	—	—
Sea	631,562	88,211	7,799	1,449	1,548	—	222,957	1,729,287	492,083	49,964	173,862	—
Standard Marine	1,119,809	166,309	30,176	19,518	9,543	—	229,486	1,746,280	1,197,292	169	102,250	—
Star Assurance	675,701	120,167	15,352	3,269	4,532	—	—	645,407	414,936	30,679	44,727	—
Sun	3,556,424	535,269	44,979	18,277	24,739	—	1,315,680	840,319	171,894	4	26,092	—
"Switzerland" General	1,037,091	140,948	15,053	11,927	22,847	—	102,063	510,527	171,835	16,182	60,653	—
Thames and Mersey	555,960	88,599	5,055	4,565	2,593	281	259,898	—	199,054	4,633	—	63
Union Assurance	194,151	14,602	1,602	5,674	1,672	—	1,397,083	—	416,137	1,781	82,791	—
Union of Canton	1,288,211	154,447	8,894	3,843	6,991	—	18,557	646,937	115,901	42,258	61,648	—
Union Marine	530,857	101,893	5,536	3,029	1,336	—	186,123	491,315	359,777	64	32,456	—
Western Assurance	1,329,278	206,696	22,651	4,686	9,757	51,505	299,572	—	—	527	—	—
Yorkshire	2,358,510	359,506	12,157	8,404	13,621	—	539,099	—	20,410	—	—	—
Totals:	\$82,032,260	\$13,706,226	\$1,035,762	\$542,472	\$433,078	\$114,447	\$17,870,817	\$20,930,377	\$14,699,539	\$2,186,536	\$1,910,243	\$35,553

Reconciliation													
Massachusetts Mutual companies other than mutual insurers (29 Companies) . . . . .	\$18,911,241	\$2,308,215	\$100,114	\$109,822	\$22,850	\$37,216	-	\$8,184,433	-	\$1,307,662	\$175,792	-	\$-160,684
Mutual companies of other states other than mutual insurers (29 Companies) . . . . .	66,800,740	11,298,315	1,011,761	257,005	139,930	87,141	-	9,647,694	\$5,289,179	5,931,238	170,328	\$291,081	304,205
Massachusetts mutual insurers' mutuals (3 Companies) . . . . .	17,518,866	-	-	-	-	-	-	-	-	-	-	-	-
Manufacturers' mutuals of other states (6 Companies) . . . . .	35,648,412	-	-	-	-	-	-	-	-	-	-	-	-
Massachusetts stock companies (7 Companies) . . . . .	28,943,391	4,952,037	545,884	137,993	178,140	52,492	\$2,277,999	8,403,802	2,087,230	4,571,841	209,568	157,559	35,417
Stock companies of other states (157 Companies) . . . . .	673,129,941	116,539,365	13,990,823	4,540,422	3,836,999	2,302,871	28,033,103	191,481,766	76,709,185	118,477,219	6,447,922	13,375,352	3,769,803
United States branches, companies of other countries (38 Companies) . . . . .	82,032,260	13,706,226	1,035,762	489,357	542,472	432,078	114,447	17,870,817	20,930,977	14,699,539	2,186,536	1,910,243	35,553
Totals: (269 Companies) . . . . .	\$922,684,551	\$148,775,188	\$16,684,344	\$5,534,799	\$4,720,391	\$2,911,898	\$30,425,549	\$235,588,512	\$105,016,571	\$144,987,499	\$9,190,146	\$15,734,235	\$3,984,294

TABLE 5.—Disbursements during 1946

COMPANIES	Net Losses	Dividends	Agents' Com- pensation and Allowances, including Brokerage	Salaries, Ex- penses and All Other Charges of Officers and Employees	Rents	Taxes and Fees	Loss on Sale and Decrease in Book Value of Assets	All Other Disburse- ments	Total
<i>Massachusetts Mutual Companies Other than Manufacturers'</i>									
Abington	\$167,447	\$50,245	\$84,973	\$24,613	\$2,886	\$7,726	\$1,000	\$24,083	\$362,973
Allied American	733,238	238,449	136,066	98,907	8,527	39,830	1,428	149,843	1,406,288
Associated Merchants	22,176	19,137	3,219	13,263	1,206	1,130	174	2,735	63,040
Attleborough	26,245	13,449	—	10,936	672	—	617	7,465	52,560
Barnstable County	40,298	55,120	6,463	19,682	590	3,942	969	7,067	127,668
Berkshire	481,490	242,253	142,887	82,880	5,754	30,519	186	1,072,176	1,072,176
Cambridge	341,180	116,175	289,486	32,188	3,493	22,945	902	49,033	875,402
Dorchester	208,859	76,372	38,496	36,446	4,300	6,498	38,937	409,908	409,908
Federal	398,373	122,071	178,136	109,347	5,368	21,026	716	86,466	921,503
Fitchburg	164,620	106,343	41,694	54,511	3,680	14,833	—	51,850	437,331
Groveland	3,876	—	232	362	150	28	—	3,575	8,423
Hingham	157,155	59,884	78,088	36,372	1,094	7,915	5,146	28,995	374,649
Holyoke	521,142	223,010	296,368	125,314	10,295	50,730	9,522	128,731	1,365,112
Lowell	137,451	65,301	3,139	31,066	4,318	3,979	2,225	28,694	377,173
Lumber	779,183	280,280	268,625	208,987	15,176	63,023	10,380	28,982	1,544,036
Lynn	144,509	55,363	100,206	24,921	1,440	9,440	2,375	28,683	366,887
Merchants and Farmers	100,643	64,655	8,434	33,889	2,130	9,364	733	23,850	243,698
Merrimack	1,026,867	359,077	618,378	182,439	11,960	78,767	5,977	191,864	2,475,329
Middlesex	571,569	221,003	393,386	80,091	5,712	45,443	20,910	122,981	1,461,095
Mutual Fire Assurance	3,636	18,120	—	12,288	1,095	216	—	8,249	43,604
Newburyport	669	3,797	—	1,467	360	70	98	209	6,670
Norfolk and Dedham	417,957	156,449	276,112	98,563	3,081	39,033	20,172	89,298	1,100,665
Pioneer	57,937	—	33,671	20,853	—	2,312	—	17,370	132,143
Quincy	861,236	354,700	544,459	121,994	9,000	95,197	107,494	173,006	2,267,086
Salem	29,659	23,039	—	13,092	1,475	2,923	—	11,220	105,780
Traders and Mechanics	376,665	123,430	201,301	65,157	9,369	34,182	1,025	68,599	879,818
United Mutual	3,613,383	1,700,846	120,299	1,449,295	65,071	230,775	33,404	618,404	7,831,477
West Newbury	2,215	—	183	747	—	38	—	3,248	6,431
Worcester Mutual	474,359	275,692	51,133	127,852	9,645	70,712	5,110	121,252	1,135,755
Totals	\$11,894,037	\$5,024,260	\$3,896,970	\$3,137,522	\$187,847	\$892,235	\$230,563	\$2,391,246	\$27,654,680
<i>Mutual Companies of Other States Other than Manufacturers'</i>									
Atlantic	\$3,888,970	\$807,625	\$618,983	\$1,467,468	\$209,986	\$475,584	\$90,252	\$1,526,367	\$9,085,235
Automobile	150,806	272,453	3,053	175,929	13,184	43,102	7,337	86,011	751,875
Central Manufacturers	2,930,362	1,095,732	1,644,808	652,427	30,172	249,136	24,142	476,884	7,103,663
Employers	347,189	127,330	71,755	120,249	4,079	30,310	4,062	60,365	765,339



Grain Dealers	1,983,389	807,641	892,256	553,321	23,624	146,621	13,092	416,915	4,836,859
Hardware Dealers	2,732,569	1,448,245	1,115,747	864,539	70,635	220,417	21,396	425,432	6,899,980
Hardware Mutual	2,165,241	1,433,830	307,074	372,606	68,432	211,552	26,774	561,529	5,647,038
Indiana Lumbermen	1,591,937	556,051	774,193	325,471	20,581	125,022	77,018	265,051	3,733,324
Lumbermen's	1,255,616	462,358	656,255	289,847	12,031	115,948	5,553	233,194	3,030,802
Manufacturers and Merchants	90,817	47,525	24,899	32,658	3,448	11,273	7,094	51,667	270,382
Merchants and Business Men's	200,121	637,767	10,990	285,378	4,890	49,828	7,082	1,264,209	1,264,209
Mechanic Millers	1,770,757	742,072	438,958	47,501	48,901	99,464	14,723	297,327	4,264,042
Millers Mutual (Ill.)	1,110,616	526,494	302,930	363,679	14,106	102,951	13,475	345,822	2,784,163
Millers Mutual (Pa.)	316,500	143,191	174,058	138,581	10,320	35,079	2,036	44,971	864,707
Millers Mutual (Texas)	806,638	282,136	296,318	236,606	6,600	43,562	1,500	131,347	1,804,736
Millers National	2,249,989	198,076	1,374,963	631,118	51,866	170,403	12,629	346,883	5,033,927
Mill Owners Mutual (Iowa)	1,285,622	424,025	666,358	273,053	10,800	117,337	6,942	190,644	2,974,781
Mutual of Saco	67,506	43,722	5,826	722,917	3,700	6,085	85	166,422	166,422
Mutual Implement	2,974,332	1,432,245	1,291,717	737,949	53,051	206,554	15,278	483,828	7,231,554
National Retailers	1,794,034	820,969	715,492	334,572	10,923	169,110	5,357	459,164	4,309,621
Northwestern Mutual	4,237,901	1,811,946	2,540,209	1,028,210	73,774	365,183	16,461	815,507	10,889,191
Pawtucket	576,006	241,556	381,823	148,477	10,000	60,745	7,092	116,256	1,541,955
Pennsylvania Lumbermen	1,096,444	461,429	388,838	212,223	22,083	104,146	63	179,057	2,464,283
Pennsylvania Millers	628,793	285,135	336,249	158,537	10,982	56,034	2,579	99,612	1,577,921
Phenix	72,654	38,020	19,919	19,848	2,771	6,288	5,970	21,707	187,177
Providence Mutual	65,601	46,767	37,808	38,113	2,016	13,494	6,641	37,843	248,283
Union Mutual	503,138	303,760	—	30,895	194,309	75,775	35,573	176,184	1,281,939
Utica (Mutual)	145,456	—	59,579	34,351	2,089	7,965	526	31,107	281,073
Vermont	261,652	111,621	131,245	99,400	8,935	28,777	1,072	93,335	736,037
Totals	\$37,301,346	\$15,627,721	\$15,668,690	\$10,770,794	\$824,764	\$3,347,746	\$442,804	\$8,058,653	\$92,042,518
<i>Massachusetts Manufacturers' Mutuals</i>									
Arkwright	\$663,843	\$2,610,894	—	\$174,180	\$9,888	\$107,554	\$87,266	\$297,990	\$3,951,615
Boston Manufacturers	1,525,664	4,885,284	—	362,557	19,295	198,776	123,172	654,659	7,769,407
Cotton and Woolen	547,269	1,779,544	—	144,234	8,626	80,670	68,900	231,634	2,860,877
Totals	\$2,736,776	\$9,275,722	—	\$680,971	\$37,809	\$387,000	\$279,338	\$1,184,283	\$14,581,899
<i>Manufacturers' Mutuals of Other States</i>									
Blackstone	\$640,082	\$2,656,872	—	\$242,647	\$15,799	\$98,880	\$4,086	\$436,535	\$4,094,901
Firemen's	1,063,830	3,288,438	—	363,432	28,487	139,833	181,442	390,560	6,089,971
Manufacturers' Mutual	2,014,395	8,665,365	\$633,899	607,632	42,682	309,028	100,681	1,548,811	13,288,594
Philadelphia Manufacturers	263,740	944,032	—	102,444	9,209	40,149	5,092	68,330	1,433,916
Protection Mutual	240,540	1,101,971	—	11,165	43,925	43,925	206,377	1,756,090	1,756,090
What Cheer	274,061	1,169,999	—	249,290	11,952	47,338	45,932	142,766	1,941,338
Totals	\$4,496,648	\$17,826,697	\$633,899	\$1,710,206	\$119,294	\$679,143	\$344,644	\$2,793,379	\$28,603,910

TABLE 5.—Disbursements during 1946—Continued

COMPANIES									
Net Losses	Dividends	Agents' Com- pensation and Allowances, including Brokerage	Salaries, Ex- penses and All Other Charges of Officers and Employees	Rents	Taxes and Fees	Decrease in Book Value of Assets	Loss on Sale and Increase in Book Value of Assets	All Other Disburse- ments	Total
<i>Massachusetts Stock Companies</i>									
Boston . . . . .	\$4,175,171	\$765,000	\$2,436,889	\$899,149	\$61,028	\$205,378	\$81,856	\$952,837	\$9,577,308
Employers . . . . .	3,433,262	75,000	1,633,445	725,055	40,735	217,924	29,418	434,435	6,589,274
Mass. Fire and Marine . . . . .	486,972	100,000	224,707	78,845	4,026	46,321	150	54,567	995,558
New England . . . . .	369,814	50,000	209,364	64,963	2,637	22,272	44,866	52,534	816,450
Old Colony . . . . .	1,499,475	350,000	1,327,569	387,892	26,155	93,500	43,923	317,219	4,043,733
Sentinel . . . . .	369,057	75,000	209,119	64,963	2,637	22,555	6,961	52,112	802,404
Springfield Fire and Marine . . . . .	12,575,753	950,000	7,119,702	2,208,755	89,666	744,325	162,721	1,764,503	25,615,425
Totals . . . . .	\$22,909,504	\$2,365,000	\$13,160,795	\$4,429,622	\$226,884	\$1,352,275	\$369,895	\$3,628,207	\$48,442,182
<i>Stock Companies of Other States</i>									
Aetna . . . . .	\$18,366,444	\$1,350,000	\$10,607,896	\$4,687,118	\$190,448	\$1,112,505	\$123,092	\$3,293,377	\$39,730,880
Agricultural . . . . .	5,240,721	420,000	3,843,430	1,355,338	28,000	375,145	107,172	834,456	11,584,262
Albany . . . . .	1,445,877	144,000	771,742	277,360	8,112	35,598	5,383	177,703	2,634,558
Allennania . . . . .	3,515,601	350,000	2,214,201	687,690	51,801	279,517	30,616	511,217	7,640,643
Alliance (Pa.) . . . . .	245,749	108,697	87,791	73,494	4,287	15,859	2,216	43,804	581,897
Allied Fire (Utica) . . . . .	13,545,666	936,247	8,641,128	2,387,316	211,429	813,633	178,881	2,863,723	29,578,023
American (N. J.) . . . . .	1,934,785	300,000	1,224,180	348,595	20,131	126,832	9,282	251,826	4,215,631
American Alliance . . . . .	2,571,346	—	1,282,797	360,655	40,763	90,037	81,164	460,130	4,886,892
American Automobile . . . . .	775,591	—	406,487	124,884	4,102	44,652	29,421	114,891	1,500,028
American Aviation . . . . .	1,926,763	175,000	1,155,478	489,918	28,240	150,962	6,479	297,993	4,230,833
American Central . . . . .	199,442	78,132	20,724	55,183	5,571	78,485	24,233	118,191	579,961
American Druggists . . . . .	3,667,525	3,800,000	2,926,803	1,125,944	106,088	719,247	225,813	2,176,150	14,747,570
American Eagle . . . . .	6,044,559	300,000	4,378,576	771,130	48,132	352,895	338,572	940,344	13,174,208
American Equitable . . . . .	1,371,332	225,000	791,583	237,740	22,511	231,813	30,439	217,984	3,128,402
American & Foreign . . . . .	—	40,000	—	10,903	—	30,255	—	2,603	83,761
American National . . . . .	2,044,817	100,000	1,670,486	165,261	22,188	41,126	159,975	136,507	4,340,360
American Reserve . . . . .	185,113	100,000	83,417	48,958	3,608	69,855	4,361	64,150	559,462
American Union . . . . .	604,328	50,000	426,089	97,418	5,374	48,186	6,709	86,501	1,324,605
Anchor . . . . .	11,516,326	700,000	6,025,009	3,607,708	287,875	714,600	121,476	2,259,639	25,232,633
Automobile . . . . .	1,687,590	180,000	1,177,790	295,223	23,292	97,848	42,767	231,287	3,735,798
Baltimore American . . . . .	2,064,569	160,000	1,263,114	399,220	23,019	136,486	144,211	281,938	4,472,557
Bankers and Shippers . . . . .	127,414	50,000	114,730	16,678	2,423	—	7,446	5,337	375,051
Birmingham (Pa.) . . . . .	1,579,840	120,000	1,177,507	281,652	19,777	121,259	27,593	318,414	3,646,042
Buffalo . . . . .	456,451	—	322,977	69,687	5,991	30,187	13,320	76,434	974,747
Caladonian-American . . . . .	1,171,365	100,000	702,697	297,756	17,128	79,169	26,092	239,152	2,633,359

Camden	5,014,874	400,000	3,149,602	1,042,401	61,076	312,513	21,185	923,637	10,925,288
Capital (Cal.)	361,153	50,000	227,810	68,053	5,992	40,757	4,507	63,110	821,391
Capital (N. H.)	91,032	8,130	20,100	10,802	690	2,591	2,684	2,910	68,566
Carolina	699,721	70,000	466,415	104,219	11,235	38,453	6,757	100,186	1,496,986
Centennial	850,544	—	191,738	299,169	12,148	155,411	3,016	126,383	1,638,609
Central States	—	60,000	—	—	—	9,288	2,798	1,459	74,745
Central Union	83,482	25,000	22,335	29,421	1,545	37,808	1,106	34,382	835,079
Charter Oak	362,129	40,000	305,484	73,322	—	61,335	4,035	29,520	875,825
Church Properties	18,511	15,000	36,407	57,901	4,550	5,664	1,241	15,633	154,907
Citizens (N. J.)	493,706	30,000	154,639	33,434	2,000	20,871	7,342	24,798	766,790
City of New York	1,283,048	150,000	902,457	227,875	18,262	115,177	7,980	172,354	2,877,053
Columbia (N. Y.)	874,330	100,000	520,605	122,202	10,068	77,930	3,355	138,030	1,936,520
Columbia (Ohio)	522,115	100,000	342,940	261,331	8,997	26,666	24,648	85,226	1,212,181
Commerce	1,305,933	100,000	779,759	261,331	14,630	184,060	24,171	210,613	2,830,497
Commercial Union	930,208	80,000	557,256	236,927	13,578	73,497	1,592	143,523	2,036,581
Commonwealth	1,371,644	200,000	884,701	311,800	22,390	112,841	45,156	289,604	3,224,585
Concordia	1,364,957	150,000	821,671	294,166	23,750	125,594	45,156	289,604	3,224,585
Connecticut	4,746,039	650,000	2,949,614	1,083,617	53,872	452,584	86,731	620,166	10,642,633
Continental	15,201,148	3,999,989	8,742,915	2,778,657	235,776	1,805,343	389,376	2,702,980	35,856,184
County	487,173	80,000	299,720	77,961	4,026	33,986	2,845	56,274	1,044,985
Detroit Fire and Marine	863,333	100,000	516,003	140,273	8,053	54,506	1,115	118,508	1,810,791
Dixie	261,058	50,000	171,470	50,794	4,479	13,340	5,384	72,057	628,602
Dubuque Fire and Marine	1,685,934	—	367,005	299,025	4,678	39,200	64,791	294,460	2,755,993
Eagle (N. Y.)	484,031	37,499	238,578	121,804	6,970	35,285	11,228	82,089	1,017,484
East and West	927,333	60,000	536,392	166,225	6,247	76,082	9,302	147,364	1,928,945
Empire State	1,310,180	120,000	980,858	383,835	7,000	72,475	25,959	158,554	2,838,861
Equitable Fire and Marine	949,208	100,000	589,923	216,722	10,774	97,894	124,991	124,991	2,106,950
Excelsior	309,904	24,000	151,234	105,793	4,346	27,855	660	60,081	683,963
Export	30,457	200,000	75,493	45,895	1,248	121,408	—	54,366	537,987
Farmers (Pa.)	596,995	—	362,638	114,480	5,000	567,017	98,802	1,233,753	—
Federal	3,402,435	620,000	2,798,067	83,808	—	—	—	273,247	7,743,577
Fidelity Union	828,724	90,000	520,600	177,896	16,257	71,203	15,206	121,376	1,847,462
Fidelity and Guaranty	5,263,804	30,000	2,378,943	962,440	41,573	334,151	36,038	776,839	9,843,808
Fidelity Phenix	12,434,886	3,299,985	2,030,075	2,030,075	166,699	1,071,535	275,471	1,317,395	27,907,806
Fire Association	7,436,059	599,587	4,312,750	1,501,357	66,499	382,766	109,799	1,102,554	14,010,023
Fireman's Fund	15,868,919	1,525,791	8,282,237	3,134,972	234,695	1,632,173	513,562	3,533,973	34,726,322
Firemen's (D. C.)	120,467	21,000	73,062	61,304	3,000	10,135	2,337	47,384	338,689
Firemen's (N. J.)	11,699,632	939,769	7,042,897	2,521,425	203,568	821,770	3,958,179	2,176,330	29,363,570
First National	650,669	32,485	441,880	205,602	12,166	77,523	3,434	135,480	1,559,239
Franklin	5,486,702	600,000	3,843,727	893,361	93,729	493,095	14,888	848,113	12,273,615
Franklin National	4,462,933	—	274,019	101,179	6,654	26,790	5,135	931,627	—
Fulton	—	—	—	5,475	—	13,718	532	75	19,800
General Exchange	3,986,564	—	3,137,874	1,884,174	130,287	113,922	29,722	1,583,088	10,365,631
General Insurance	8,074,245	880,005	5,786,717	1,761,732	71,838	476,121	51,041	1,370,479	18,472,178
Gibraltar Fire and Marine	992,532	—	648,739	174,482	13,239	77,547	670	130,909	2,138,118
Gibraltar Fire and Marine	1,364,957	160,000	821,671	294,167	23,750	112,427	4,404	262,958	3,044,334
Gins Falls	7,490,286	925,000	4,418,635	1,480,878	82,902	577,194	288,863	1,511,666	16,685,424
Globe and Republic	2,518,566	100,000	1,824,280	321,304	20,035	146,403	110,811	349,371	5,390,799
Globe and Rutgers	2,738,065	241,860	1,811,905	629,916	33,238	161,583	29,903	392,984	6,039,454
Granite State	1,385,702	120,000	747,297	367,807	6,573	81,854	2,710	178,760	2,890,703
Great American	11,990,180	1,950,000	7,089,763	2,742,093	157,570	960,111	3,677	1,919,673	26,822,067
Hanover	5,737,450	480,000	3,763,007	1,095,716	58,530	480,861	20,668	1,296,146	12,942,378
Harford	30,562,012	3,000,000	19,323,775	6,525,432	414,305	3,882,808	215,944	4,991,560	68,415,836
Home	40,829,455	3,600,000	22,166,530	7,993,640	870,648	4,594,248	111,712	7,214,623	87,386,556



TABLE 5.—Disbursements during 1946—Continued

COMPANIES	Net Losses	Dividends	Agents' Compensation and All Allowances, Other Charges and Brokerage	Salaries, Expenses and All Other Charges and Employees	Rents	Taxes and Fees	Loss on Sale and Decrease in Book Value of Assets	All Other Disbursements	Total
<i>Stock Companies of Other States—Continued</i>									
Home Fire and Marine . . . . .	\$2,841,920	\$200,000	\$1,624,318	\$581,443	\$43,119	\$230,352	\$84,573	\$548,619	\$6,154,344
Homeland . . . . .	1,048,532	50,000	711,769	133,199	13,496	76,384	9,354	171,705	2,234,639
Homestead . . . . .	1,867,912	50,000	581,517	132,946	13,882	70,947	9,327	124,638	1,850,869
Imperial Assurance . . . . .	1,072,223	100,000	662,126	271,556	13,089	99,364	8,802	176,159	2,395,319
Ins. Co. of North America . . . . .	20,388,850	4,489,257	10,580,288	5,326,305	466,449	2,864,060	3,022,889	3,904,790	51,242,888
Ins. Co. of the State of Pa. . . . .	1,073,257	60,000	811,479	117,755	8,441	62,840	2,545	169,676	2,305,993
Inter-Ocean . . . . .	1,715,085	75,000	1,446,144	135,852	15,302	22,230	4,835	127,772	3,542,820
Jersey . . . . .	1,321,515	90,000	806,989	255,983	14,715	86,754	25,102	183,107	2,784,165
Lumbermens (Pa.) . . . . .	1,050,934	140,000	673,938	242,766	16,240	78,715	4,906	143,505	2,331,004
Manhattan Fire and Marine . . . . .	841,377	50,000	535,404	181,784	15,064	60,062	9,966	145,332	1,836,157
Mechanics and Traders . . . . .	1,003,022	—	593,706	230,942	14,417	60,062	37,449	117,739	2,037,337
Merchants . . . . .	1,437,127	200,000	961,118	323,984	23,003	124,276	14,744	298,778	3,383,030
Merchants (N. Y.) . . . . .	2,401,415	2,165,000	2,067,290	385,450	21,260	296,140	35,128	8,947,168	15,755,485
Merchants and Manufacturers . . . . .	1,511,140	100,000	1,094,373	192,782	13,033	88,162	145,438	211,272	3,355,445
Merchants (Colo.) . . . . .	592,020	16,000	487,124	105,518	5,191	47,845	4,904	114,102	1,372,704
Mercury . . . . .	2,438,919	200,000	1,598,884	319,016	12,689	111,144	11,557	281,114	4,973,323
Michigan Fire and Marine . . . . .	1,479,278	120,000	837,479	259,853	10,549	87,360	29,535	206,270	3,030,324
Milwaukee Mechanics . . . . .	3,704,383	320,000	2,230,251	798,451	64,463	298,632	169,825	665,510	8,252,015
Minneapolis Fire and Marine . . . . .	—	40,000	—	—	—	4,069	15,232	709	8,001.0
National Fire . . . . .	13,502,224	1,000,000	7,992,203	2,951,061	194,079	799,416	81,508	1,701,733	28,292,274
National-Ben Franklin . . . . .	1,364,957	75,000	821,671	294,167	23,750	110,109	10,081	241,278	2,931,013
National-Grange . . . . .	85,538	68,845	12,541	19,497	360	29,270	7,589	7,589	223,580
National Liberty . . . . .	5,005,418	600,000	3,518,739	869,676	69,732	299,452	22,397	655,369	11,040,783
National Union . . . . .	7,175,304	975,000	4,212,811	1,208,103	73,919	421,347	137,811	1,166,067	14,671,992
Newark . . . . .	2,642,456	350,000	1,659,687	504,359	44,176	246,020	31,236	466,133	5,944,067
New Brunswick . . . . .	1,399,000	150,000	961,799	221,547	25,511	109,040	100,008	194,610	3,161,555
New Hampshire . . . . .	4,312,829	615,000	2,722,503	1,232,568	8,625	218,081	9,480	620,733	9,739,819
New York Fire . . . . .	2,518,566	160,000	1,824,007	321,304	20,055	146,687	12,214	347,159	5,349,992
New York Underwriters . . . . .	1,518,829	100,000	798,380	242,863	12,629	70,705	17,612	199,258	2,959,776
Niagara . . . . .	5,615,089	900,000	3,721,748	1,573,714	150,473	626,712	11,052	5,900,023	18,499,441
North American Fire and Marine . . . . .	42,546	—	44,057	400	—	4,905	—	2,777	94,685
Northern (N. Y.) . . . . .	3,312,064	320,000	2,178,234	716,443	34,624	208,548	69,771	510,528	7,350,212
North River . . . . .	4,572,933	800,000	2,898,974	1,188,298	106,128	540,129	37,997	607,242	10,751,681
Northwestern Fire and Marine . . . . .	597,415	100,000	297,021	74,422	4,986	23,669	67,533	1,131,998	1,819,998
Northwestern National . . . . .	2,750,229	400,000	2,080,465	1,032,314	84,694	355,099	87,191	486,069	7,276,061
Ohio Farmers . . . . .	2,265,515	—	1,423,544	629,334	25,575	108,810	23,134	409,122	4,975,034
Orient . . . . .	1,452,247	50,000	559,117	343,219	22,994	112,871	18,304	399,073	2,867,825
Pacific . . . . .	2,355,403	—	1,438,546	454,454	26,221	156,677	39,915	326,828	4,998,044
Pacific National . . . . .	2,420,579	200,000	2,018,781	925,196	56,072	209,908	7,780	510,544	6,148,860
Patrolnic . . . . .	761,855	—	610,814	96,243	6,128	46,967	2,137	102,198	1,626,342
Paul Revere . . . . .	832,070	120,000	576,421	128,367	13,635	80,384	306	114,463	1,865,649

Pennsylvania	3,112,815	450,000	1,952,961	774,099	55,061	252,985	34,284	718,036	7,350,241
Philadelphia Fire and Marine	3,187,116	350,000	3,814,891	779,171	67,191	266,675	214,975	894,320	9,574,339
Philadelphia National	437,019	70,000	281,040	103,026	6,766	43,867	8,715	58,281	1,008,714
Phoenix	7,864,865	1,800,000	4,887,931	1,795,708	89,274	761,073	90,329	1,103,003	18,392,183
Piedmont	3,644,915	25,000	1,177,874	50,932	4,838	95,240	14,837	191,722	2,925,378
Potomac	1,921,275	—	1,631,887	457,996	9,390	114,489	6,077	356,815	4,497,929
Providence Washington	5,963,612	420,000	3,834,798	868,652	48,368	429,578	28,337	817,764	12,411,109
Providence	970,132	—	657,962	96,967	9,866	42,123	75,399	74,062	1,926,511
Quaker City	474,169	400,000	446,520	5,271	—	45,451	—	193,651	1,205,062
Queen	6,811,103	800,000	4,289,385	1,311,818	114,322	556,781	230,028	1,205,751	15,319,188
Reliance	700,304	100,000	449,409	162,689	10,827	58,319	64,038	1,648,648	1,648,648
Richmond	758,090	150,000	519,835	224,781	19,677	37,321	24,252	116,504	1,850,460
Rochester American	863,333	120,000	492,661	140,957	8,052	66,197	3,088	102,347	1,796,615
Safeguard	605,103	50,000	232,965	143,458	9,581	46,803	10,114	102,840	1,200,864
Safeguard Fire and Marine	874,265	—	527,929	164,033	10,469	60,481	4,330	125,902	1,767,409
Seaboard Insurance	321,548	24,000	203,848	60,867	5,330	31,606	2,915	58,830	708,944
Security	4,527,567	350,000	2,618,859	811,572	30,498	276,200	24,033	728,566	9,367,315
Standard (Conn.)	1,552,931	—	919,314	544,381	45,248	154,482	14,284	323,637	3,554,277
Standard (N. J.)	624,112	98,000	354,056	149,329	5,895	4,965	8,325	114,089	1,392,751
Standard (N. Y.)	3,049,134	90,000	2,230,095	326,301	7,878	163,415	28,746	301,367	6,181,730
Star	1,961,201	175,000	1,252,189	373,538	32,235	160,026	347,699	347,699	4,330,694
St. Paul Fire and Marine	11,969,551	1,600,000	6,073,387	2,806,398	103,606	1,329,406	91,081	1,568,975	25,992,904
Sun Underwriters	567,733	—	333,720	74,129	4,994	45,236	15,110	81,313	1,125,255
Surety	240,454	—	288,213	27,437	1,310	12,666	662	53,536	624,278
Transcontinental	462,933	—	274,018	101,179	6,654	27,341	8,359	54,635	935,119
Travelers	11,174,445	80,000	6,409,713	3,853,770	333,437	795,467	76,486	2,149,287	24,872,605
United Firemen's	1,168,697	100,000	714,700	292,237	13,649	107,250	11,194	207,942	2,615,669
United States Fire	7,458,046	1,000,000	4,756,087	2,061,994	179,381	669,264	1,119	1,329,426	17,454,317
Universal	819,792	50,000	450,391	83,307	23,442	51,036	21,563	94,058	1,593,589
Vigilant	665,456	—	498,268	2,407	—	134,448	1,417	46,066	1,348,062
Virginia Fire and Marine	892,591	40,000	540,839	190,044	6,851	60,300	8,505	138,613	1,877,743
Washington Assurance	1,555,892	—	147,929	17,342	738	37,103	11	26,743	385,758
Westchester	4,835,726	640,000	2,827,717	1,146,269	100,853	516,692	37,136	857,833	10,962,226
Western National	1,114,919	120,000	611,772	223,785	16,677	107,753	45,351	220,113	2,459,470
World Fire and Marine	1,657,942	100,000	1,047,576	263,991	13,279	100,735	6,250	230,884	3,420,657
Zurich	527,673	—	283,589	116,285	6,167	29,116	—	65,036	1,027,866
Totals	\$511,338,581	\$59,786,297	\$314,425,732	\$109,253,305	\$7,686,503	\$44,196,072	\$14,094,663	\$94,220,559	\$1,155,001,712

*United States Branches, Companies of Other Countries*

Alliance Assurance	\$814,861	—	\$553,223	\$1,220	—	\$163,411	\$9	\$322,269	\$1,854,993
Atlas Assurance	2,555,166	—	1,285,867	612,833	\$42,589	150,624	6,422	554,272	5,207,773
British America	501,713	—	334,220	120,888	11,050	26,008	—	77,849	1,071,728
British and Foreign Marine	1,166,921	—	587,698	168,815	17,406	214,227	16,528	441,090	2,612,685
British General	277,495	—	166,816	70,497	4,010	21,964	1,639	88,471	630,892

TABLE 5.—Disbursements during 1946—Concluded

COMPANIES	Net Losses	Dividends	Arents' Com- pensation and Allowances, Other Charges including Brokerage	Salaries, Ex- penses and All of Officers and Employees	Rents	Taxes and Fees	Loss on Sale and Decrease in Book Value of Assets	All Other Disburse- ments	Total
<i>United States Branches, Companies of Other Countries — Concluded</i>									
Caledonian	\$1,722,441	—	\$1,134,254	\$257,503	\$22,012	\$116,070	\$16,379	\$289,737	\$3,558,396
Century	1,118,420	—	901,935	141,906	10,262	166,529	3,271	263,432	2,605,755
Commercial Union Assurance	4,160,480	—	2,477,137	1,089,359	63,459	553,360	53,344	1,890,969	10,288,108
Eagle Star	477,891	—	248,721	12,541	—	12,035	5,667	521,514	1,278,369
Indemnity Marine	456,014	—	297,959	—	—	84,159	5,206	90,253	938,591
Law Union and Rock	485,361	—	197,106	114,406	7,665	38,453	5,267	139,241	987,499
Liverpool and London and Globe	6,560,839	—	4,198,925	1,389,710	108,346	551,136	73,011	1,263,222	14,145,189
London Assurance	2,778,894	—	1,835,390	436,726	36,436	208,562	3,562	834,109	6,133,679
London and Lancashire	2,300,848	—	892,079	543,430	36,407	177,551	1,869	496,243	4,448,427
London and Scottish	235,752	—	120,673	51,712	3,169	19,367	126	48,119	437,948
Marine	1,148,062	—	835,833	1,875	—	312,693	263	793,041	3,091,567
Netherlands	703,534	—	589,459	106,109	9,314	47,075	263	204,775	1,672,971
North British and Mercantile	4,813,494	—	3,008,384	907,746	67,043	346,989	17,567	1,311,281	10,472,504
Northern Assurance	3,487,504	—	1,957,874	881,401	41,638	221,666	17,270	692,828	7,100,181
Norwich Union	2,439,943	—	1,133,647	623,614	34,943	169,409	2,208	637,855	5,061,619
Ocean Marine	229,829	—	58,465	36,518	1,879	78,937	14	48,558	454,220
Pacific Coast	279,605	—	225,434	35,338	2,566	37,945	3,283	27,634	621,855
Palatine	649,328	—	391,286	164,492	9,359	51,527	1,943	217,238	1,485,173
Phoenix Assurance	2,691,908	—	1,340,323	535,224	24,768	240,255	7,818	562,124	5,402,420
Royal	6,962,375	—	4,424,997	1,473,321	115,583	706,325	74,599	2,388,774	16,145,974
Royal Exchange	2,121,352	—	1,393,020	277,451	25,902	141,589	90,168	469,839	4,519,321
Scottish Union and National	2,571,463	—	1,504,319	455,864	21,198	139,985	39,284	752,347	5,484,960
Sea	1,230,450	—	953,179	2,400	—	271,502	18,903	450,777	2,927,211
Standard Marine	1,281,218	—	1,533,316	7,116	—	237,315	3,156	356,191	3,418,312
State Assurance	432,837	—	238,437	79,352	6,962	31,539	35,352	55,165	879,700
Sun	3,142,580	—	2,004,405	387,585	16,898	329,149	3,844	682,808	6,567,269
"Switzerland" General	834,648	—	768,138	11,090	1,775	16,062	13,921	114,189	1,759,823
Thames and Mersey	608,277	—	302,198	95,932	9,960	169,393	9,759	212,230	1,407,769
Union Assurance	649,828	—	391,286	164,492	9,359	51,249	2,766	186,895	1,455,375
Union of Canton	1,332,251	—	1,129,361	65,008	5,821	132,031	234	706,445	3,371,151
Union Marine	728,165	—	354,705	174,989	9,939	88,990	66,419	290,385	1,713,572
Western Assurance	1,050,764	—	724,839	250,501	22,774	78,737	—	154,480	2,282,095
Yorkshire	1,299,735	—	787,239	250,660	15,919	122,059	1,180	280,922	2,757,714
Totals	\$66,301,832	—	\$41,291,497	\$11,799,624	\$816,411	\$ 6,525,897	\$614,956	\$18,947,571	\$146,297,788



<i>Recapitulation</i>										
Massachusetts Mutual Companies other than										
manufacturers' (29 companies)	\$11,894,037	\$5,024,260	\$3,896,970	\$3,137,522	\$187,847	\$892,235	\$230,563	\$2,391,246	\$27,654,680	
Mutual companies of other states other than manu-										
facturers' (29 companies)	37,301,346	15,627,721	15,668,690	10,770,794	824,764	3,347,746	442,804	8,058,653	92,042,518	
Massachusetts manufacturers' mutuals (3 com-										
panies)	2,736,776	9,275,722	-	680,971	37,809	387,000	279,338	1,184,283	14,581,899	
Manufacturers' mutuals of other states (6 com-										
panies)	4,496,648	17,826,697	633,899	1,710,206	119,294	679,143	344,644	2,793,379	28,603,910	
Massachusetts stock companies (7 companies)	22,909,504	2,365,000	13,160,795	4,429,622	226,884	1,352,275	369,895	3,628,207	48,442,182	
Stock companies of other states (157 companies)	511,338,581	59,786,297	314,425,732	109,253,305	7,686,503	44,196,072	14,094,663	94,220,559	1,155,001,712	
United States branches, companies of other coun-										
tries (38 companies)	66,301,832	-	41,291,497	11,799,624	816,411	6,525,897	614,956	18,947,571	146,297,788	
Totals (269 companies)	\$656,978,724	\$109,905,697	\$389,077,583	\$141,782,044	\$9,899,512	\$57,380,368	\$16,376,863	\$131,223,898	\$1,512,624,689	

TABLE 6.—*Net Losses Paid during 1946*

COMPANIES	Fire	Extended Coverage	Hail (except growing crops)	Tornado, Windstorm, Cyclone,	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>Massachusetts Mutual Companies</i>													
<i>Other than Manufacturers</i>													
Abington	\$139,181	\$14,972	\$416	—	—	—	—	\$12,811	—	—	—	—	—
Allied American	99,066	13,534	300	619	\$174	—	—	590,378	—	\$4,935	\$93,791	—	—\$39,759
Associated Merchants	17,696	1,648	—	112	—	—	—	2,480	—	240	—	—	—
Attleborough	22,038	2,112	—	—	—	—	—	2,095	—	—	—	—	—
Barnstable County	32,766	7,532	—	—	—	—	—	—	—	—	—	—	—
Berkshire	304,298	32,447	497	589	31	\$9	—	133,248	—	10,371	—	—	—
Berkshire	256,838	25,703	1,544	3	57	—	—	57,035	—	—	—	—	—
Cambridge	177,379	26,833	274	63	2,553	—	—	19,335	—	—	—	—	—17,383
Dorchester	233,989	26,742	241	1,189	—	—	—	119,635	—	15,561	4,182	—	—3,166
Federal	96,532	9,509	173	72	—	—	—	58,334	—	—	—	—	—
Fitchburg	3,876	—	—	—	—	—	—	—	—	—	—	—	—
Groveland	124,793	32,181	71	110	—	—	—	—	—	—	—	—	—
Hingham	302,999	63,911	1,280	600	—	—	—	152,352	—	—	—	—	—
Holyoke	73,464	10,287	—	70	—	—	—	53,530	—	—	—	—	—
Lowell	632,211	33,942	10,515	1,493	173	—	—	46,266	—	13,473	—	—	—21,110
Lynn	87,498	8,728	34	284	—	—	—	47,610	—	—	—	—	—355
Merchants and Farmers	87,355	15,852	234	128	—	—	—	16,468	—	—	—	—	—19,394
Merrimack	656,294	64,267	4,122	1,405	214	28	—	300,522	—	15	—	—	—
Middlesex	352,826	35,120	150	1,136	—	—	—	180,918	—	—	—	—	—1,419
Mutual Fire Assurance	1,959	1,677	—	—	—	—	—	—	—	—	—	—	—
Newburyport	669	—	—	—	—	—	—	—	—	—	—	—	—
Norfolk and Dedham	286,267	50,434	1,515	1,034	25	5	—	77,421	—	28	1,228	—	—
Pioneer	21,192	491	—	—	—	—	—	36,047	—	207	—	—	—
Quincy	588,622	91,535	967	73	—	—	—	180,039	—	—	—	—	—
Salem	48,119	5,149	3	24	—	—	—	6,364	—	—	—	—	—
Traders and Mechanics	286,727	19,510	—	2,847	—	—	—	67,581	—	—	—	—	—
United Mutual	1,808,450	261,722	15,524	7,058	66	—	—	1,182,247	—	320,757	17,559	—	—
West Newbury	2,215	—	—	—	—	—	—	—	—	—	—	—	—
Worcester Mutual	318,547	30,143	310	1,728	—	—	—	123,631	—	—	—	—	—
Totals:	\$7,083,866	\$885,986	\$38,261	\$20,704	\$3,093	\$42	—	\$3,466,556	—	\$365,587	\$86,760	—	\$—56,818
<i>Mutual Companies of Other States</i>													
<i>Other than Manufacturers</i>													
Atlantic	\$457,468	\$20,414	\$787	\$3,717	\$14	—	—	\$145,363	\$2,287,516	\$764,401	—	\$142,339	\$66,951
Automobile	—	—	—	—	—	—	—	150,906	—	—	—	—	—840
Central Manufacturers	1,755,137	253,075	29,438	1,861	89	—	—	640,508	63,002	186,412	—	—	—
Employers	112,661	20,633	742	11	86	—	—	183,084	—	26,104	\$2,398	—	—1,420
Grain Dealers	1,420,030	149,037	28,197	2,599	168	—	—	334,443	74,838	14,557	—	—	—40,460





TABLE 6.—*Net Losses Paid during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Riot, Civil Commotion and Explosion	Earth-quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>Massachusetts Stock Companies</i>												
Boston	\$2,362,164	\$198,246	\$46,600	\$7,918	\$2,677	\$29	\$551,569	\$656,862	\$315,558	\$8,437	\$32,800	\$748
Employers	1,171,910	144,760	22,560	5,569	1,360	—	1,732,149	—	326,517	13,648	—	—
Mass. Fire and Marine	347,267	40,829	6,762	1,358	457	15	38,210	—	18,605	2,667	888	380
New England	222,880	25,962	7,248	696	730	—	53,860	2,725	29,884	—	3,400	321
Old Colony	868,011	87,859	15,585	2,775	898	12	226,085	149,766	144,813	—	888	380
Seaford	25,962	25,962	7,253	696	730	—	53,097	2,725	29,884	—	888	380
Springfield Fire and Marine	7,577,934	882,710	246,618	23,661	24,823	3	1,831,991	92,642	1,016,042	91,804	30,190	12,925
Totals:	\$12,773,047	\$1,406,328	\$352,626	\$42,673	\$31,675	\$59	\$4,506,911	\$904,720	\$1,881,303	\$119,223	\$68,166	\$14,754
<i>Stock Companies of Other States</i>												
Aetna	\$9,868,694	\$1,044,274	\$392,204	\$35,617	\$56,997	\$35	\$2,322,311	\$1,216,897	\$2,395,594	\$121,730	\$228,719	\$10,929
Agricultural	3,076,367	276,347	71,634	7,390	3,519	3	981,130	476,933	238,756	47,274	39,121	—
Albany	280,196	45,767	7,106	293	118	—	88,645	—	23,751	1	—	—
Allennania	759,532	89,879	21,021	4,979	771	4	118,670	82,483	50,385	—	291	—
Alliance (Pa.)	1,982,403	97,695	30,397	2,740	1,370	—	461,655	138,764	553,648	10,098	139,374	5,664
Allied Fire (Utica)	130,588	10,004	1,686	—	—	—	—	—	—	—	—	—
Allied Fire (N. J.)	8,333,858	1,040,660	277,184	14,362	13,836	432	1,662,770	620,967	1,070,915	66,085	91,483	—
American Alliance	1,258,596	135,921	30,453	4,471	1,465	56	190,793	52,978	92,706	68,239	—	—
American Automobile	81,300	8,384	438	—	—	—	247,261	—	99,085	98,160	—	—
American Aviation	1,072,176	199,537	38,333	2,197	1,343	—	381,731	—	265,516	5,980	—	—
American Central	184,988	14,454	—	—	—	—	799,312	—	270,902	17,663	1,067	—
American Druggists	2,237,377	288,941	56,231	10,229	1,602	—	393,204	—	281,735	5,426	4,164	—
American Eagle	4,709,448	395,361	99,062	10,536	16,608	2,083	157,516	47,662	52,835	33,378	54,590	—
American Equitable	706,066	69,979	18,646	3,790	2,650	—	—	271,455	—	—	—	—
American and Foreign	—	—	—	—	—	—	—	—	—	—	—	—
American National	1,643,873	113,216	30,773	2,073	2,706	108	46,470	79,101	55,738	14,059	—	—
American Reserve	163,911	16,453	4,659	—	74	—	—	—	16	—	—	—
Anchor	243,742	37,240	4,846	578	126	—	142,716	58,896	127,274	—	16,099	—
Automobile	3,152,781	430,323	72,724	8,318	5,694	25	4,062,565	1,352,009	2,087,370	105,359	218,994	164
Baltimore American	1,009,677	107,919	38,130	13,691	1,057	69	342,107	3,336	130,411	7	—	897
Bankers and Shippers	1,010,035	160,282	31,119	5,466	1,133	—	712,066	15,543	130,141	—	—	—
Birmingham (Pa.)	121,211	4,868	14	—	28	—	1,129	—	164	—	—	—
Buffalo	1,015,721	154,356	7,776	406	56	—	349,576	19,125	33,070	—	—	—
California	650,287	31,404	3,008	1,016	204	—	84,751	—	12,189	—	—	—
Caledonian-American	97,275	97,275	23,373	1,339	819	—	232,756	—	161,900	3,616	—	—
Camden	2,680,313	350,044	60,986	4,738	3,372	415	1,076,197	172,576	566,877	58,666	—	—

Capital (Cal.)	220,046	21,868	5,827	1,184	828	1	133	49,224	30,816	16,277	10,430	3,919	-
Capital (N. H.)	15,531	1,635	-	-	-	-	-	3,866	-	-	-	-	329
Carolina	386,321	38,863	13,041	5,013	388	25	-	227,837	471,079	47,904	-	-	-
Central	112,070	2,021	-	970	20	-	-	34,939	-	229,106	-	-	-
Central States	-	-	-	-	-	-	-	-	-	-	-	-	-
Central Union	-	-	-	-	-	-	-	-	-	-	-	-	-
Charter Oak	78,104	4,044	1,253	-	81	-	-	-	-	68,483	4,486	-	-
Church Properties	238,222	41,354	7,574	970	940	-	-	-	-	-	-	-	-
Citizens (N. H.)	15,639	998	1,874	-	-	-	-	-	-	-	-	-	-
Citizens (N. Y.)	376,682	9,371	4,987	100	69	2	-	30,466	44,463	19,663	608	7,299	46
Columbia (N. Y.)	827,673	87,881	29,145	11,348	881	57	-	227,270	16,341	80,160	747	1,545	-
Columbia (Ohio)	521,601	47,327	8,034	1,474	589	18	-	192,353	-	49,543	53,589	-	-
Commerce	348,026	44,284	11,705	1,611	580	18	-	70,756	122,266	29,552	-	-	1,137
Commercial Union (N. Y.)	689,933	60,370	13,020	1,582	1,181	14	-	248,208	129,942	121,942	7,563	30,001	9,423
Commonwealth	513,728	77,692	18,067	1,069	664	-	-	185,985	121,520	29,552	2,893	-	-
Concordia	734,470	122,180	16,165	1,069	664	-	-	185,985	121,520	29,552	2,893	-	-
Connecticut	723,719	87,944	24,667	1,062	1,071	28	-	305,769	62,066	124,563	4,385	1,707	3,511
Continental	2,448,028	270,517	69,877	3,215	1,071	-	-	708,029	44,075	755,905	42,571	40,925	-
County	8,865,388	810,696	504,331	19,106	12,644	20	-	1,918,446	376,881	962,837	48,916	144,911	5,686
Deloit Fire and Marine	347,468	40,829	6,762	1,358	457	15	-	38,210	1,331,048	18,005	13,648	-	-
Dixie	598,986	68,013	12,852	2,252	750	26	-	76,369	-	37,146	27,286	-	568
Dubuque Fire and Marine	273,658	22,956	876	-297	7,524	9	-	35,378	9,177	14,926	-	-	-
Eagle (N. Y.)	364,061	30,684	4,230	486	202	-	-	698,618	-	130,373	-	-	-
East and West	61,323	11,695	4,300	4,893	74	41	-	167,115	47,070	21,921	7,754	6,476	34
Empire State	769,092	69,087	17,909	880	4,893	1	-	245,282	119,233	59,689	11,818	9,780	-
Equitable Fire and Marine	489,606	54,103	13,935	1,689	643	-	-	141,806	75,376	151,041	8,514	8,185	-
Excelsior	240,227	23,309	5,295	123	122	1	-	40,427	-	490	-	-	-
Export	1,046	1,593	85	25	-	-	-	-	2,325	9,635	-	24,168	-
Farmers (Pa.)	555,966	29,905	7,064	780	1,533	-	-	1,717	-	1,717	-	-	-
Federal	468,771	63,976	14,484	920	794	-	-	1,370,563	958,875	343,023	55,983	124,496	-
Federal Union	507,485	50,297	13,402	2,724	1,905	1	-	13,215	64,782	37,362	23,990	13,255	-
Fidelity and Guaranty	1,772,913	287,788	46,722	956	5,808	-	-	2,715,846	4,334	386,830	60,580	2,527	-
Fidelity Phenix	721,122	66,742	11,629	12,412	12,412	20	-	1,769,605	1,319,344	942,604	48,916	128,983	5,686
Fire Association	3,907,556	337,778	12,559	3,746	3,746	-	-	1,151,057	331,789	593,541	20,447	82,455	-
Fireman's Fund	6,174,375	614,848	114,422	19,969	11,434	1164	-	2,418,143	2,896,025	2,636,698	48,840	1,003,907	-
Fireman's (D. C.)	1,118,768	701	-	-	-	-	-	-	-	-	-	-	-
Firemans (N. J.)	6,208,302	753,804	213,148	9,106	9,177	240	-	3,392,304	377,790	644,214	23,624	69,845	-
First National	3,988,863	173,065	12,313	161	427	305	-	65,100	-	405	-	-	-
Franklin Fire	3,275,489	338,843	121,883	43,308	3,348	216	-	769,805	196,089	726,287	-	18,535	2,839
Franklin National	276,296	31,029	11,287	1,112	167	-	-	95,694	1,983	44,048	803	554	-
Fulton	-	-	-	-	-	-	-	-	-	-	-	-	-
General Exchange	-	-	-	-	-	-	-	3,988,504	294,475	-	-	-	-
General Insurance	4,407,338	690,130	69,154	9,830	117,148	1,736	-	1,764,879	204,475	696,939	22,116	-	-
Gibraltar Fire and Marine	599,682	63,884	20,135	7,741	603	39	-	227,648	-	72,292	-	-	508
Grand Fire and Marine	723,719	87,944	24,867	1,062	1,071	28	-	395,769	44,075	75,158	2,756	8,149	-
Glens Falls	342,097	73,782	8,962	6,692	736	359	-	1,406,510	692,844	691,005	42,857	173,404	53,398
Globe and Republic	1,962,270	164,734	41,276	4,390	6,920	79	-	149,668	19,859	117,390	2,261	1,735	-
Globe and Rutgers	1,468,856	228,883	52,101	2,898	900	855	-	498,879	289,039	52,243	28	56,309	-

TABLE 6.—*Net Losses Paid during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Cyclone, and Hail (except growing crops)	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>Stock Companies of Other States—Continued</i>												
Granite State . . . . .	\$935,710	\$73,751	\$13,699	\$1,242	\$12	—	\$311,262	—	\$49,526	—	—	—
Great American . . . . .	6,744,420	596,280	214,710	5,850	317	—	1,486,429	\$810,615	720,937	\$532,296	\$86,222	—
Hanover . . . . .	3,180,063	294,325	115,968	7,628	298	—	1,063,329	418,329	48,359	22,375	48,359	—
Hartford . . . . .	14,994,985	1,826,761	967,577	10,854	304	798,404	5,971,257	1,379,979	3,854,013	119,171	555,762	\$51,292
Home . . . . .	23,913,735	2,530,285	898,928	336,318	1,217	2,639,328	4,264,469	1,708,285	4,262,281	—	262,751	21,726
Home Fire and Marine . . . . .	1,363,174	155,746	25,262	4,409	—	22,201	533,876	332,473	298,435	5,748	118,072	—
Homeland . . . . .	623,138	78,576	13,358	408	—	—	196,117	41,722	88,342	2,248	1,325	3,128
Homestead . . . . .	469,132	49,313	16,337	6,370	32	—	227,648	16,341	79,982	—	1,545	418
Imperial Assurance . . . . .	647,715	57,110	9,698	494	—	—	231,636	—	59,538	—	—	—
Insurance Co. of North America . . . . .	9,458,597	603,858	98,232	30,894	20	651,953	2,364,351	2,958,647	3,568,208	219,674	371,405	43,891
Insurance Co. of the State of Pa. . . . .	569,539	93,149	19,027	869	97	59,743	171,931	—	158,891	11	—	—
Inter-Ocean . . . . .	1,108,533	237,423	89,669	336	31	111,639	58,090	18,540	70,678	—	—	—
Jersey . . . . .	644,656	102,402	19,882	3,492	6	—	456,374	12,018	82,743	—	—	—
Lumbermens (Pa.) . . . . .	634,206	62,768	10,187	85	—	—	184,169	52,555	94,967	3,272	6,016	—
Manhattan Fire and Marine . . . . .	587,918	59,632	14,788	599	186	—	138,578	4,296	39,524	—	—	—
Mechanics and Traders . . . . .	598,641	67,230	24,456	2,408	—	—	207,251	42,966	95,437	1,741	1,200	—
Mercantile . . . . .	781,017	115,804	23,724	1,041	—	—	260,400	62,066	172,139	2,501	1,707	5,533
Mechanics (N. Y.) . . . . .	1,487,758	208,143	43,347	729	—	—	376,463	193,009	46,524	28,584	16,306	125
Merchants and Manufacturers . . . . .	1,177,362	98,840	24,765	2,634	513	28,325	89,801	11,916	70,434	1,857	1,041	—
Merchants (Colo.) . . . . .	421,545	63,710	20,823	35	8	—	70,578	—	15,178	—	—	—
Mercury . . . . .	1,218,403	197,247	52,259	2,862	—	153,355	559,724	10,899	253,236	—	—	—
Michigan Fire and Marine . . . . .	891,522	103,848	29,013	2,784	—	87,578	215,439	119,633	119,633	10,668	3,552	1,521
Milwaukee Mechanics . . . . .	1,964,379	238,705	67,497	2,883	76	975	1,074,220	—	204,001	7,481	22,117	—
Minneapolis Fire and Marine . . . . .	—	—	—	—	—	—	—	—	—	—	—	—
National Fire . . . . .	8,058,633	905,019	329,212	4,868	—	—	2,789,922	57,828	1,284,729	23,433	16,158	—
National-Ben Franklin . . . . .	723,719	87,944	24,867	1,071	28	359	386,769	44,075	75,158	2,756	8,149	—
National Grange . . . . .	33,717	—	—	—	—	—	51,579	—	242	—	—	—
National Union . . . . .	3,240,344	340,026	118,644	3,346	216	—	700,743	95,430	391,442	—	9,020	2,839
National Liberty . . . . .	4,300,203	514,982	101,087	2,633	—	46,811	985,969	164,802	855,251	105,527	—	—
Newark . . . . .	1,650,621	137,453	41,984	8,327	4	956	336,320	188,677	116,966	75,100	—	—
New Brunswick . . . . .	827,367	89,096	23,747	881	370	—	341,661	16,341	80,160	—	—	—
New Hampshire . . . . .	2,890,600	304,736	46,561	7,005	59	—	617,892	116,109	217,244	93,124	12,555	747
New York . . . . .	1,962,270	164,734	41,276	4,390	855	47,208	149,668	19,859	117,390	2,261	1,735	—
New York Underwriters . . . . .	1,862,712	147,769	44,436	661	—	—	214,214	148,211	63,208	—	24,331	—
Niagara . . . . .	3,512,562	449,583	66,110	2,784	—	94,069	1,200,127	—	258,529	—	8,922	—
North American Fire and Marine . . . . .	—	1,618	642	107	—	—	710	—	2,182	2,253	—	—



Northern (N. Y.)	1,900,968	213,583	64,337	12,594	309	117	1,053,538	66,618	15,563	95,407	114
North River	2,597,879	336,399	101,123	3,718	2,739	3	276,103	321,231	15,563	95,407	114
Northern Fire and Marine	2,891,126	23,428	12,341	251	173	4	76,164	37,053	1,520	6,063	—
Northern National	1,812,695	242,663	73,048	171	342	—	473,255	94,588	53,399	—	—
Ohio Farmers	1,132,014	105,440	76,999	332	409	—	925,646	94,296	—	—	—
Orient	1,003,721	123,262	39,017	4,811	480	—	268,892	21,764	—	—	—
Pacific	1,151,378	182,543	25,442	6,225	151	10	811,749	19,790	9	—	—
Pacific National	1,333,332	257,331	33,744	3,589	2,331	38	435,109	315,902	—	—	—
Patriotic	453,406	34,367	7,637	905	823	34	104,833	99,740	—	—	—
Paul Revere	503,088	53,582	17,750	6,827	529	34	191,639	16,341	—	—	—
Pennsylvania	1,823,440	263,530	51,198	2,192	897	100	502,132	233,802	31,992	1,545	—
Philadelphia Fire and Marine	2,100,523	273,674	68,811	2,516	12,785	—	562,089	124,132	80,287	3,415	—
Philadelphia National	295,424	24,610	4,245	837	230	78	76,737	416,434	357,503	147,152	15,753
Phoenix	4,056,732	442,283	115,465	13,990	5,228	—	1,174,963	213,999	1,363	2,507	—
Piedmont	795,568	74,005	12,940	1,255	126	—	624,546	39,569	70,547	67,818	—
Potomac	753,568	190,358	12,940	1,255	126	—	388,398	23,774	291,968	987	—
Providence	2,572,812	283,753	38,954	6,880	1,521	—	689,196	269,147	—	9,695	—
Providence Washington	694,816	43,100	13,962	614	1,521	52	1,024,853	786,262	—	72,290	—
Provident	602,182	48,100	38,082	6,880	1,521	—	162,177	125,257	—	—	—
Quaker City	146,998	16,860	6,204	369	131	—	216,389	56,630	14,548	—	—
Queen	4,362,776	406,752	108,381	22,029	15,405	11	929,852	301,813	194,008	24,138	—
Reliance	426,302	39,377	6,791	1,340	399	124	122,779	63,311	2,181	4,011	—
Richmond	527,082	105,462	15,715	1,095	484	4	89,684	930	—	—	—
Rochester American	598,986	68,013	12,852	2,252	750	26	76,369	33,689	27,296	—	—
Safeguard	418,217	51,359	12,090	2,004	200	—	112,039	37,146	—	—	—
Seaboard Fire and Marine	519,098	41,016	4,557	1,450	43	—	98,106	130,301	67,674	117	—
Seaboard Insurance	198,581	19,682	5,244	1,066	745	1	44,301	24,553	9,387	12,020	—
Security	2,570,873	299,402	57,100	20,993	23,391	198	815,914	14,633	37,860	3,135	—
Standard (Conn.)	994,007	147,080	26,415	1,881	2,356	—	229,812	439,380	13,051	31,619	—
Standard (N. Y.)	585,443	50,541	14,939	189	—	—	108,071	298,041	—	—	—
Standard	1,363,871	238,391	39,457	5,698	—	—	873,876	331,293	171,936	—	—
Star	1,235,616	129,463	32,631	6,632	4,638	3	275,652	90,707	58,411	19,526	—
Star Paul Fire and Marine	3,905,455	591,758	273,451	7,995	3,437	5,075	2,318,219	1,896,387	124,230	—	—
Sun Underwriters	277,705	26,502	7,838	395	721	18	157,191	97,173	—	—	—
Surety	—	—	—	—	—	—	226,504	13,950	—	—	—
Transcontinental	276,266	31,029	11,257	1,112	167	—	95,654	44,048	803	554	—
Travelers	5,740,392	785,731	145,790	18,438	17,864	—	3,079,906	1,301,168	85,207	—	—
United Firemen's	693,107	63,937	10,556	1,972	326	—	259,467	66,728	72,104	—	—
United States Fire	4,654,693	566,428	218,532	8,228	3,571	14	157,334	899,511	16,497	1,295	—
Universal	2,134	—	—	—	—	—	211,016	367,065	61,689	56,309	—
Vigant	49,886	7,854	1,561	99	76	—	187,983	266,958	13,973	30,002	—
Virginia Fire and Marine	605,426	75,000	16,840	734	475	11	77,857	5,219	—	—	—
Washington Assurance	18,187	35,639	1,159	4,945	—	—	928,820	413,672	17,096	91,485	—
Westchester	2,380,629	278,742	99,502	4,945	2,371	60	188,427	166,237	2,873	59,036	—
Western National	47,910	8,916	1,556	7,836	891	—	333,548	116,271	—	—	—
World Fire and Marine	701,120	70,496	13,866	10,233	198	35	137,930	272,129	—	2,116	—
Zurich	—	—	—	—	—	—	527,673	—	—	—	—
Totals:	\$46,472,253	\$5,784,927	\$1,458,075	\$152,648	\$96,260	\$5,817	\$1,737,948	\$7,345,466	\$806,334	\$801,994	\$27,502

TABLE 6.—*Net Losses Paid during 1946—Concluded*

COMPANIES	Fire	Extended Coverage	Tornado, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk only)	All Other
<i>United States Branches, Companies of Other Countries</i>													
Alliance Assurance	-	-	-	-	-	-	-	\$207,542	\$401,264	\$127,056	\$25,185	\$53,814	-
Atlas Assurance	\$1,472,124	\$240,277	\$37,305	\$1,540	\$619	-	-	465,384	183,725	153,635	3	554	-
British America	350,031	21,307	5,470	856	434	\$4	\$17,576	18,844	39,731	39,731	-	30	-
British and Foreign Marine	39,363	30,363	10,488	2,132	1,491	1	239	88,602	33,343	33,343	18,775	58,548	-
British General	132,418	23,352	5,611	332	106	-	-	55,872	516,777	38,556	868	-	-
Caledonian	1,174,586	115,698	11,000	3,748	754	19	-	303,287	15,323	43,585	-	47,351	-
Century	34,786	34,436	17,258	1,366	404	-	-	102,875	260,802	87,326	9,325	54,822	-
Commercial Union Assurance	2,062,731	314,025	76,380	4,562	2,642	-	-	750,162	268,265	508,249	11,571	141,893	-
Eagle Star	14,026	-	-	-	-	-	-	-642	350,577	57,238	-	56,394	-
Indemnity Marine	-	-	-	1,604	100	-	-	89,631	310,666	120,730	-	24,618	-
Law Union and Rock	335,853	41,087	9,672	-	-	-	-	925,405	370,510	304,085	196,004	53,529	\$93
Liverpool and London and Globe	4,149,590	411,126	109,546	22,265	15,571	11	2,497	303,860	324,488	222,130	23,185	95,110	-
London Assurance	1,424,604	139,142	34,723	2,206	446	-	-	425,747	1,466	34,491	-	-	443
London and Lancashire	1,589,225	195,165	45,944	7,617	760	-	-	30,680	-	-	-	-	-
London and Scottish	180,380	19,836	3,901	815	170	-	-	207,526	607,591	216,133	25,185	91,627	-
Marine	-	-	-	-	-	-	-	127,202	16,304	17,600	-	847	-
Netherlands	486,199	49,068	4,699	1,588	319	8	-	343,477	175,935	828,743	399,044	7,587	-
North British and Mercantile	2,718,501	265,353	80,837	8,729	1,408	-	-	352,823	95,764	463,064	193,300	22,442	-
Northern Assurance	2,075,766	228,114	44,855	9,376	1,950	50	-	253,032	241,805	89,781	-	45,912	-
Norwich Union	1,631,031	153,421	21,148	2,430	1,008	-	375	-	181,310	31,472	-	17,947	-
Ocean Marine	-	-	-	-	-	-	-	-	65,200	21,832	-	13,706	-
Pacific Coast	136,196	9,859	4,314	347	101	-	-	25,719	130,552	90,664	2,025	-	-
Palatine	357,162	54,595	13,118	753	459	-	-	610,680	158,555	158,555	172,434	-	-
Phoenix Assurance	1,569,439	140,043	25,255	4,887	1,615	-	-	-	318,186	964,784	204,438	74,138	-
Royal	4,324,665	428,621	114,208	23,213	16,233	12	2,603	233,831	389,812	158,402	-	40,945	-
Royal Exchange	1,132,255	129,250	32,248	1,060	837	-	-	636,971	115,250	115,250	17	-	-
Scottish Union and National	1,635,996	150,211	26,609	4,427	1,973	9	-	167,800	660,545	103,789	25,185	104,043	-
Sea	143,307	20,572	4,657	296	256	-	-	101,973	561,513	550,657	-	67,075	-
Standard Marine	-	-	-	-	-	-	-	-	406,046	-	-	-	-
State Assurance	377,429	43,083	11,749	353	279	-	-	555,700	301,906	207,451	14,081	38,554	-
Sun	1,741,813	141,930	27,131	3,310	3,490	114	-	275	233,216	73,316	-	37,612	-
"Switzerland" General	332,435	23,328	4,234	1,180	283	49	-	49,224	23,216	17,200	10,430	47,720	-
Thames and Mersey	220,646	21,868	3,527	1,154	828	1	133	130,552	90,664	90,664	2,025	-	-
Union Assurance	337,162	54,595	13,118	753	469	-	-	13,548	501,049	233,889	-	34,582	-
Union of Canton	519,440	21,011	7,015	722	895	-	-	239,113	239,113	38,051	27,280	48,661	-
Union Marine	237,721	23,892	4,053	759	227	-	-	103,909	201,378	33,368	-	16,375	-
Western Assurance	62,511	13,139	919	1,025	589	7	17,618	-	-	-	-	-	-
Yorkshire	923,347	92,307	10,322	1,905	-	-	-	237,897	-	-	-	-	-
Totals:	\$35,361,604	\$3,722,446	\$838,924	\$117,244	\$57,821	\$285	\$41,041	\$9,060,099	\$8,625,444	\$5,831,561	\$1,335,651	\$1,296,166	\$13,516





TABLE 7.—Assets Dec. 31, 1946

COMPANIES		Real Estate	Mortgages	Collateral Loans	Stocks and Bonds	Cash in Office and Banks	Premium Balances and Bills Receivable	All Other Assets	Assets Not Admitted	Admitted Assets
<i>Massachusetts Mutual Companies Other than</i>										
<i>Manufacturers'</i>										
Abington	.	\$28,000	\$2,500	—	\$483,093	\$251,696	\$46,584	\$36,789	\$275	\$848,387
Allied American	.	—	—	—	2,185,231	611,608	263,640	45,480	53,512	3,032,447
Associated Merchants	.	6,530	10,225	—	57,844	105,337	8,499	15,279	334	203,410
Attleborough	.	—	—	—	77,323	47,732	5,314	5,751	32	137,338
Barnstable County	.	—	1,350	—	518,175	96,022	—	7,237	32	692,434
Berkshire	.	—	—	—	1,173,384	200,313	168,068	40,029	20,233	1,628,945
Cambridge	.	54,000	13,404	—	1,233,545	346,502	113,696	9,716	26,434	1,702,607
Cambridge	.	—	25,632	—	598,037	134,295	44,566	39,944	1,077	853,140
Dorchester	.	—	37,575	—	1,207,471	208,614	123,185	30,044	11,004	1,558,310
Federal	.	—	—	—	405,995	257,452	77,713	13,492	4	826,648
Fitchburg	.	72,000	—	—	—	501	—	1,140	1,085	556
Groveland	.	—	—	—	955,068	187,737	57,607	15,298	10,497	1,216,128
Hingham	.	10,895	—	—	3,099,119	234,837	213,726	209,269	2,166	3,904,785
Holyoke	.	150,000	—	—	303,461	21,601	38,254	11,918	731	374,503
Lowell	.	—	—	—	4,034,026	620,290	165,354	86,506	59,688	5,065,026
Lumber	.	—	—	—	661,492	169,684	53,500	36,949	9,405	937,890
Lynn	.	4,000	21,670	—	395,258	48,234	35,824	9,431	2	494,245
Merchants and Farmers	.	—	5,500	—	2,670,238	960,968	409,476	81,188	33,875	4,295,659
Merrimack	.	148,999	58,665	—	3,199,234	612,781	209,465	184,532	44,523	4,442,936
Middlesex	.	87,239	192,208	\$2,000	353,763	27,156	275	18,828	27,974	427,190
Mutual Fire Assurance	.	—	55,142	—	44,760	26,315	—	11,443	45	82,473
Newburyport	.	—	—	—	2,420,436	169,897	163,978	106,626	82,581	2,802,516
Norfolk and Dedham	.	22,660	1,500	—	27,378	59,181	3,074	3,010	2,131	111,012
Pioneer	.	—	—	—	4,443,575	432,545	372,745	435,314	588	5,817,620
Quincy	.	144,000	—	—	142,580	48,025	19,719	2,990	694	212,620
Salem	.	—	—	—	1,519,090	159,007	159,394	21,919	26,830	1,834,560
Traders and Mechanics	.	—	2,000	—	11,502,935	1,558,094	1,292,847	326,248	193,206	14,486,918
United Mutual	.	—	—	—	—	80	—	—	—	80
West Newbury	.	—	—	—	—	—	—	—	—	—
Worcester Mutual	.	136,500	282,575	—	4,109,519	426,871	281,100	92,984	3,545	5,326,004
Totals	.	\$1,084,361	\$709,746	\$2,000	\$47,822,440	\$8,013,414	\$4,347,603	\$1,899,354	\$612,531	\$63,266,387
<i>Mutual Companies of Other States Other than</i>										
<i>Manufacturers'</i>										
Atlantic	.	—	—	—	\$19,454,619	\$2,348,840	\$656,360	\$3,082,677	\$688,572	\$28,342,977
Automobile	.	—	—	—	4,673,445	383,965	18,591	503,001	8,079	5,570,923
Central Manufacturers	.	—	—	—	10,655,433	1,382,274	964,989	151,633	5,491	13,588,912
Employers	.	—	—	—	1,271,121	614,495	36,261	33,881	15,656	1,940,102

Grain Dealers	270,888	36,825	—	5,187,329	675,692	643,814	56,410	26,136	6,844,822
Hardware Dealers	—	—	—	10,362,773	1,444,900	595,043	140,843	80,968	12,462,591
Hardware Mutual	275,127	—	—	5,832,288	1,637,275	647,356	300,435	75,846	8,616,635
Indiana Lumbermen's	848,134	27,240	—	3,712,630	700,523	418,037	234,909	5,429	5,936,044
Lumbermen's	75,000	21,095	—	3,838,293	727,311	402,782	112,995	74,307	5,103,169
Manufacturers and Merchants	—	—	\$3,043	1,226,035	53,372	31,736	53,114	42,328	1,324,972
Merchants and Business Men's	48,500	770,042	14,000	1,716,814	525,237	54,904	236,963	91,393	3,275,067
Michigan Millers	388,994	91,625	—	4,124,668	721,874	485,919	368,622	58,411	6,123,291
Millers Mutual (Ill.)	128,630	9,000	—	3,941,200	870,188	273,636	29,034	34,298	5,217,390
Millers Mutual (Pa.)	92,716	203,535	—	1,699,671	329,762	100,300	28,033	18,231	2,435,786
Millers Mutual (Texas)	112,500	178,175	—	1,827,366	461,250	249,944	100,165	38,114	2,891,286
Millers National	8,460	—	—	6,400,457	1,222,320	757,523	37,568	29,723	8,396,805
Mill Owners Mutual (Iowa)	199,053	11,500	—	2,914,897	528,356	436,809	51,750	4,098,016	4,098,016
Mutual of Saco	44,996	—	—	184,768	50,748	21,437	6,647	7,544	301,052
Mutual Implement	294,362	—	—	8,532,391	1,939,976	480,688	53,936	43,024	11,258,329
National Retailers	108,193	50,747	—	4,471,666	994,927	150,706	233,194	55,940	5,953,493
Northwestern Mutual	21,592	203,123	47,650	13,396,136	1,775,034	1,314,873	1,204,811	268,528	17,694,691
Pawtucket	172,208	40,782	—	2,393,427	389,625	242,440	132,682	7,233	3,363,931
Pennsylvania Lumbermen's	256,876	129,640	—	4,505,691	854,172	190,987	102,799	121,151	5,919,014
Phoenix	91,500	—	—	4,389,628	442,870	193,080	37,128	56,325	5,097,381
Providence Mutual	143,884	17,344	—	650,726	37,974	19,656	44,367	12,555	740,168
Union Mutual	—	—	—	1,517,648	88,652	26,373	53,455	3,578	1,843,778
Utica (Mutual)	27,528	22,603	—	1,950,331	341,465	119,094	83,487	8,517	2,485,860
Vermont	50,000	—	—	566,898	78,115	55,053	1,434	43,803	707,828
Totals	\$7,316,194	\$2,135,350	\$64,693	\$132,399,649	\$21,746,311	\$9,684,620	\$7,442,477	\$196,618	\$178,822,676
Massachusetts Manufacturers' Mutuals									
Arkwright	—	—	—	\$10,933,088	\$1,084,957	\$276,631	\$73,985	\$82,873	\$12,285,788
Boston Manufacturers	—	—	—	19,737,729	1,717,204	1,219,761	457,544	199,526	22,932,712
Cotton and Woolen	—	—	—	7,705,450	558,860	382,958	212,877	11,688	8,848,257
Totals	—	—	—	\$38,376,267	\$3,360,821	\$1,879,350	\$744,406	\$294,087	\$44,066,757
Manufacturers' Mutuals of Other States									
Blackstone	—	—	—	\$10,586,640	\$1,210,778	\$643,962	\$295,493	\$45,573	\$12,691,300
Firemen's	—	—	—	13,800,716	1,726,888	389,337	747,434	66,875	16,670,858
Manufacturers' Mutual	\$65,670	\$7,688	—	35,015,073	2,055,835	2,165,342	2,205,828	133,063	41,307,015
Philadelphia Manufacturers	—	—	—	3,542,413	370,679	2,152,801	75,636	8,672	4,132,857
Protection Mutual	—	—	—	4,447,191	935,475	—	286,416	10,077	5,307,902
What Cheer	—	—	—	4,898,606	443,800	346,276	37,470	87,083	5,639,069
Totals	\$65,670	\$7,688	—	\$72,290,639	\$6,743,455	\$3,346,615	\$3,648,277	\$353,343	\$85,749,001

TABLE 7.—Assets Dec. 31, 1946—Continued

COMPANIES		Real Estate	Mortgages	Collateral Loans	Stocks and Bonds	Cash in Office and Banks	Premium Balances and Bills Receivable	All Other Assets	Assets Not Admitted	Admitted Assets
<i>Massachusetts Stock Companies</i>										
Boston Employers' . . . . .		\$1,108,812	\$9,490	—	\$18,288,076	\$2,764,808	\$2,121,027	\$8,259,713	\$52,952	\$32,029,064
Massachusetts Fire and Marine . . . . .		—	—	—	8,348,782	1,336,991	799,485	368,360	212,685	10,640,933
New England . . . . .		—	—	—	3,219,232	236,826	155,892	417,417	13,094	4,036,333
Old Colony . . . . .		—	115,628	—	2,972,056	116,732	117,327	12,491	33,751	3,299,483
Sentinel . . . . .		—	—	—	10,781,588	1,319,136	263,750	1,486,043	75,909	13,774,608
Springfield Fire and Marine . . . . .		200,000	555,532	—	2,922,875	114,645	117,404	159,713	5,487	3,369,150
Totals . . . . .		\$1,308,812	\$680,650	—	\$8,926,802	\$3,650,595	\$4,665,653	\$2,856,157	\$93,739	\$51,261,000
<i>Stock Companies of Other States</i>										
Aetna . . . . .		\$2,730,707	—	—	\$66,887,814	\$11,697,256	\$4,265,311	\$2,196,532	\$1,640,843	\$86,136,777
Agricultural . . . . .		327,121	—	—	15,277,308	2,275,546	2,291,091	295,101	121,293	22,347,159
Albany . . . . .		14,000	—	\$43,500	2,551,058	555,783	311,049	262,150	56,680	3,775,987
Allennia . . . . .		80,000	152,212	—	5,261,181	972,032	297,241	358,396	1,010	7,120,072
Alliance (Pa.) . . . . .		—	—	—	11,716,464	1,814,325	1,447,707	1,623,888	88,156	16,514,228
Allied Fire (Utica) . . . . .		—	13,858	—	952,940	382,106	110,567	28,514	6,656	1,481,329
American . . . . .		2,642,214	699,785	—	47,315,054	6,935,574	3,808,856	2,993,471	367,782	64,027,172
American Alliance . . . . .		—	—	—	10,122,955	637,263	648,774	1,275,571	23,129	12,661,434
American Automobile . . . . .		—	—	—	4,070,052	1,648,307	1,457,816	289,934	33,141	7,432,968
American Aviation . . . . .		—	—	—	490,092	242,596	167,533	47,064	45,828	2,593,745
American Central . . . . .		—	—	—	1,740,588	965,736	705,131	153,247	8,429	9,482,740
American Druggists . . . . .		758,358	9,378	—	7,704,454	153,467	67,939	27,021	8,429	2,449,252
American Eagle . . . . .		—	—	—	1,441,518	115,117	117,942	4,707,398	111,799	36,140,511
American Equitable . . . . .		4,569,646	13,481	—	24,634,726	1,152,117	1,087,814	2,079,385	115,254	22,242,661
American and Foreign . . . . .		—	—	—	17,107,090	2,082,536	1,087,814	2,079,385	44,968	20,310,005
American National . . . . .		—	—	—	8,630,354	756,888	458,664	479,667	1,365	10,302,401
American Reserve . . . . .		—	—	—	1,232,724	75,622	—	752,380	432,917	7,682,707
American Union . . . . .		—	69,900	—	6,353,000	1,097,276	—	711,035	29,100	4,178,302
Anchor . . . . .		—	—	—	3,438,747	300,028	327,692	158,354	32,076	3,890,123
Automobile . . . . .		27,334	2,469	—	3,311,386	345,784	106,675	1,527,909	71,853	47,131,571
Baltimore American . . . . .		40,000	—	—	37,478,485	4,075,012	4,092,215	363,825	63,915	8,741,415
Bankers and Shippers . . . . .		—	—	—	7,459,428	817,732	124,345	338,408	12,695	8,693,681
Birmingham (Pa.) . . . . .		—	—	—	6,803,256	864,124	700,588	338,408	2,198	7,744,868
Buffalo . . . . .		18,376	165,989	—	2,284,846	312,266	41,736	—	217,882	88,275
Calcedonian-American . . . . .		1,113,036	289,724	—	5,087,322	938,410	639,437	58,198	172,431	8,197,536
California . . . . .		—	9,753	—	1,615,524	195,209	251,059	181,134	44,971	1,937,312
Camden . . . . .		587,730	2,925	—	4,567,353	627,047	1,444,372	530,159	74,344	6,365,590
Capital (Cal.) . . . . .		242,263	413,594	—	15,485,072	1,978,337	1,662,461	—	3,434	20,237,542
Capital (N. H.) . . . . .		—	1,000	—	2,625,616	356,273	343,426	—	21,577	3,201,790
Carolina . . . . .		—	5,350	—	473,032	40,779	7,431	36,606	2,208	556,640
Totals . . . . .		\$1,308,812	\$680,650	—	\$2,731,105	\$322,867	\$50,634	\$141,932	\$16,303	\$3,235,585





TABLE 7.—Assets Dec. 31, 1916—Continued

COMPANIES	Real Estate	Mortgages	Collateral Loans	Stocks and Bonds	Cash in Office and Banks	Premium Balances and Bills Receivable	All Other Assets	Assets Not Admitted	Admitted Assets
<i>Stock Companies of Other States — Concluded</i>									
Hone Fire and Marine	—	—	—	\$11,934,335	\$1,525,456	\$974,925	\$1,304,614	\$93,525	\$5,645,805
Holland	—	—	—	3,628,822	600,467	460,374	300,598	21,975	4,968,286
Honestead	—	—	—	3,342,550	558,655	34,633	160,721	20,775	4,075,784
Imperial Assurance	—	—	—	4,726,545	259,823	178,629	206,857	104,529	5,267,325
Insurance Co. of North America	\$5,105,000	—	—	131,578,912	15,595,838	7,695,409	37,415,476	889,698	196,590,937
Insurance Co. of the State of Pa.	181,083	—	—	3,922,500	885,052	394,536	388,148	207,194	5,564,125
Inter-Ocean	131,442	—	—	4,917,764	471,912	449,956	152,552	40,621	6,447,419
Jersey	—	7,900	—	4,606,077	561,366	447,597	89,053	8,110	5,703,883
Lumbermen (Pa.)	—	25,498	—	5,025,464	523,556	452,225	765,544	8,719	6,783,568
Manhattan Fire and Marine	—	—	—	3,507,656	449,378	366,294	70,431	30,048	4,363,739
Mechanics and Traders	—	—	—	6,370,656	934,298	371,279	44,691	190,838	7,530,086
Mercantile	—	—	—	6,372,740	1,032,450	608,591	570,272	35,276	9,168,783
Mercants (N. Y.)	—	—	—	14,321,628	1,909,625	708,756	8,440,053	12,197	25,754,417
Mercants (Colo.)	22,772	163,780	—	4,530,474	616,159	287,251	49,132	12,510	6,063,965
Mercury	—	304,089	—	2,405,216	185,590	238,498	136,229	12,713	3,218,788
Michigan Fire and Marine	37,247	—	—	8,772,809	633,882	843,462	63,652	214,832	10,333,669
Milwaukee Mechanics	514,462	—	—	5,362,253	274,808	469,335	464,213	34,239	6,335,056
Minneapolis Fire and Marine	—	1,109,725	—	12,334,470	893,361	1,670,001	464,213	214,832	16,771,420
National Fire	—	—	—	2,584,041	674,587	362,043	88,135	—	3,708,806
National-Ben Franklin	3,763,373	266,045	—	48,028,221	4,600,688	3,559,442	7,100,826	1,293,170	66,025,425
National Grange	230,000	132,753	—	4,640,058	420,834	751,400	133,215	111,246	6,197,014
National Liberty	—	3,244	—	701,759	69,508	27,758	2,575	4,228	829,622
National Union	—	15,993	—	22,970,082	2,656,764	321,605	976,601	200,623	26,727,773
New Brunswick	—	—	—	22,395,376	3,215,272	2,513,143	1,033,608	638,476	29,617,000
New Hampshire	—	—	—	13,070,701	640,832	768,555	755,475	140,670	15,110,886
New York Fire	—	—	—	16,436,273	639,562	101,066	174,018	29,368	23,066,142
New York Underwriters	—	—	—	5,420,864	2,224,321	1,876,187	3,415,740	95,259	23,915,650
Niagara	—	9,550	—	7,904,936	880,489	460,071	579,592	156,476	9,809,891
North American Fire and Marine	—	—	—	31,774,710	2,064,997	240,351	1,128,506	156,476	40,554,793
North (N. Y.)	—	—	—	12,145,550	95,927	1,599,404	5,348,523	35,634	22,227,350
North River	—	—	—	12,512,362	1,821,988	1,243,959	100,273	35,698	15,611,547
Northwestern Fire and Marine	1,000	62,240	—	4,801,183	296,955	1,720,601	2,413,837	57,558	33,651,462
Northwestern National	24,401	30,431	—	3,125,748	262,633	—	2,135,655	29,636	23,148,115
Ohio Farmers	405,371	297,250	—	17,093,213	1,262,633	532,424	1,365,783	78,389	9,618,249
Orient	135,927	10,921	—	6,337,265	714,338	447,531	513,637	207,084	7,306,137
Pacific	311,269	—	—	5,930,360	308,414	797,891	748,205	14,689	10,466,876
Pacific National	242,250	4,650	—	8,018,332	912,467	758,965	2,190,632	129,331	16,617,522

Patriotic	3,339,712	305,032	279,408	267,182	47,431	4,143,903
Paul Revere	3,960,559	465,880	47,721	17,692	4,756,273	
Pennsylvania	15,015,385	2,179,842	1,271,151	1,536,832	19,907,434	
Philadelphia Fire and Marine	30,144,163	2,141,220	1,776,230	789,366	34,711,280	
Philadelphia National	3,131,630	271,251	289,183	198,545	3,887,758	
Phoenix	44,166,409	4,308,569	2,347,322	30,028,035	354,414	81,210,619
Piedmont	4,939,339	971,336	867,211	71,481	101,037	5,805,416
Potomac	5,883,177	1,027,603	600,195	246,648	7,690,820	
Providence Washington	18,072,730	2,234,047	2,666,143	2,112,355	25,284,141	
Providence	3,580,648	189,421	465,584	109,137	3,904,822	
Quaker City	1,820,408	426,604	247,915	42,808	2,470,007	
Queen	30,879,678	1,658,437	1,705,396	974,496	36,098,793	
Reliance	4,296,362	400,261	393,124	474,749	5,032,521	
Rochester	5,032,128	810,158	317,725	318,512	6,585,604	
Rochester American	5,079,582	322,249	247,995	531,876	6,173,250	
Safeguard	3,034,161	223,198	259,740	412,717	3,862,137	
Seaboard Fire and Marine	3,157,604	775,082	333,001	65,782	4,106,472	
Seaboard Insurance	1,883,693	201,008	226,115	26,073	2,332,435	
Security	13,086,254	2,028,238	1,722,929	2,382,904	19,946,169	
Standard (Conn.)	7,763,886	909,735	655,923	120,031	9,401,365	
Standard (N. H.)	2,970,522	329,157	162,751	151,897	3,983,888	
Standard (N. Y.)	8,564,632	2,082,118	1,127,934	245,173	11,869,223	
State	8,015,044	423,581	512,563	394,499	9,274,399	
St. Paul Fire and Marine	50,523,830	4,283,416	4,807,878	11,028,276	70,777,983	
Sun Underwriters	1,949,222	216,191	175,354	37,560	2,335,067	
Surety	1,569,546	703,443	253,031	7,878	2,506,512	
Transcontinental	4,295,018	865,760	463,181	20,343	5,621,151	
Travelers	35,846,008	4,587,088	4,312,964	884,096	45,341,572	
United Firemen's	4,623,643	307,908	189,518	138,397	5,441,959	
United States Fire	37,067,354	9,089,416	3,100,276	5,824,666	55,015,432	
Universal	2,936,386	1,458,568	1,332,230	576,703	5,074,941	
Vigilant	4,761,892	816,606	201,560	122,581	5,887,116	
Virginia Fire and Marine	3,634,168	220,475	324,020	71,840	4,250,771	
Washington Assurance	2,400,788	276,683	60,775	254,238	3,048,543	
Westchester	20,870,798	4,652,450	1,710,638	2,346,328	29,614,908	
Western National	6,465,908	867,668	531,173	615,028	8,450,639	
World Fire and Marine	7,205,583	1,338,530	760,922	168,618	9,351,367	
Zurich	2,367,008	380,150	101,308	51,429	2,858,421	
Totals	\$47,450,163	\$12,054,686	\$93,800	\$2,198,754,873	\$290,894,313	\$158,961,139
					\$24,874,730	\$3,065,990,379



TABLE 7.—Assets Dec. 31, 1946—Concluded

COMPANIES		Real Estate	Mortgages	Collateral Loans	Stocks and Bonds	Cash in Office and Banks	Premium Balances and Bills Receivable	All Other Assets	Assets Not Admitted	Admitted Assets
<i>United States Branches, Companies of Other Countries</i>										
Alliance Assurance	.	—	—	—	\$3,406,587	\$1,892,782	\$233,540	\$247,712	\$114,928	\$5,665,693
Atlas Assurance	.	—	—	—	6,720,290	1,794,072	1,014,093	634,412	245,251	9,917,616
British America	.	—	—	—	2,731,734	560,589	226,534	106,737	1,135	3,624,459
British and Foreign Marine	.	—	—	—	5,846,863	562,799	209,275	162,965	16,059	6,763,843
British General	.	—	—	—	1,230,151	135,317	122,588	64,487	14,135	1,558,923
Caledonian	.	—	—	—	4,338,722	961,068	418,833	202,592	374,693	5,881,914
Century	.	\$835,392	—	—	5,097,733	454,827	386,386	574,477	33,857	10,470,186
Commercial Union Assurance	.	1,175,950	—	—	12,060,288	5,111,097	1,578,391	610,080	537,789	19,998,067
Eagle Star	.	—	—	—	4,035,754	661,227	—	393,964	6,466	5,067,310
Indemnity Marine	.	—	—	—	2,137,940	850,312	83,020	49,101	18,759	2,567,965
Law Union and Rock	.	—	—	—	9,416,164	1,791,615	205,581	85,147	93,651	2,565,436
Liverpool and London and Globe	.	—	6,000	—	23,807,246	1,796,661	1,822,842	993,974	235,300	28,183,423
London Assurance	.	—	—	—	6,564,490	798,690	863,142	1,288,771	98,007	13,299,155
London and Lancashire	.	—	—	—	1,516,597	202,511	62,662	46,968	251,666	8,666,585
London and Scottish	.	—	—	—	6,535,754	1,697,367	284,212	294,990	60,421	1,768,317
Manne	.	—	—	—	2,470,883	370,635	64,553	120,448	105,049	8,707,274
Netherlands	.	—	—	—	14,513,897	2,549,549	995,588	1,670,732	199,345	2,827,174
North British and Mercantile	.	683,735	—	—	8,196,511	1,798,584	1,172,300	205,481	146,662	19,453,013
Northern Assurance	.	175,000	3,250	—	6,047,622	1,155,611	713,930	315,755	61,067	11,913,199
Norwich Union	.	—	—	—	1,458,835	272,293	14,890	37,730	41,087	8,346,851
Ocean Marine	.	—	—	—	1,614,987	281,901	89,446	62,086	7,344	1,742,661
Pacific Coast	.	—	—	—	3,123,859	322,566	217,324	194,838	12,671	3,853,786
Palatine	.	—	7,670	—	7,181,402	866,855	964,980	172,181	404,579	9,021,418
Phoenix Assurance	.	228,579	12,000	—	6,431,893	2,604,562	3,384,235	1,366,638	372,343	32,304,663
Royal	.	372,000	—	—	2,949,671	816,417	738,105	153,945	142,298	8,249,669
Royal Exchange	.	—	—	—	7,349,912	1,042,286	859,526	401,301	43,325	9,840,205
Scottish Union and National	.	—	—	—	6,782,777	1,070,575	276,506	415,552	100,433	8,430,721
Sea	.	—	138,494	—	2,282,320	1,400,503	574,271	392,931	171,635	8,478,890
Standard Marine	.	—	—	—	1,565,939	160,106	—	73,482	16,977	1,769,372
State Assurance	.	—	—	—	7,294,592	1,905,733	633,158	778,601	160,610	10,431,404
Sun	.	—	—	—	2,594,763	1,191,300	126,183	71,428	37,713	3,945,361
"Switzerland" General	.	—	—	—	3,510,265	352,212	103,583	115,936	16,390	4,065,606
Thames and Mersey	.	—	—	—	2,484,548	325,641	213,921	98,927	40,940	3,082,097
Union Assurance	.	—	—	—	5,464,322	1,009,541	362,125	147,318	79,823	6,903,483
Union of Canton	.	—	—	—	4,111,220	369,281	126,495	831,247	169,271	4,768,972
Union Marine	.	—	—	—	4,687,954	1,327,101	435,045	97,228	35,463	6,511,865
Western Assurance	.	—	—	—	3,305,941	609,743	399,103	732,256	24,022	5,023,021
Yorkshire	.	—	—	—	—	—	—	—	—	—
Totals	.	\$3,310,023	\$195,929	—	\$228,264,267	\$41,304,348	\$20,845,931	\$14,400,247	\$4,767,932	\$303,552,813



TABLE 8.—*Liabilities Dec. 31, 1946*

COMPANIES	Net Unpaid Losses	Unearned Premiums	Taxes Due or Accrued	All Other Liabilities	Total Liabilities, except Capital	Surplus to Policyholders			Total
						Capital	Contingent Reserves	Unassigned Funds	
Massachusetts Mutual Companies Other than Manufacturers									
Abington	\$25,185	\$419,010	\$7,000	\$5,118	\$456,322	—	—	\$392,065	\$392,065
Allied American	237,657	1,076,207	68,263	254,072	1,636,199	\$100,000*	\$250,000†	1,966,248	1,416,248
Associated Merchants	4,194	69,174	608	1,902	75,878	—	—	127,532	127,532
Athol	3,173	60,991	988	1,372	66,524	—	—	70,814	70,814
Barnstable County	2,370	138,296	4,058	653	145,377	—	—	477,057	477,057
Barshire	73,500	1,098,868	31,000	16,073	1,129,441	—	40,000	459,504	499,504
Cambridge	79,365	1,093,549	25,000	11,632	1,209,546	—	—	493,061	493,061
Dorchester	35,792	458,961	10,500	12,973	518,227	—	—	334,913	334,913
Federal	102,963	829,056	32,681	48,938	1,013,638	100,000*	—	444,672	544,672
Fitchburg	36,095	485,663	14,286	9,495	545,539	—	—	281,109	281,109
Grovehead	—	—	47	280	327	—	—	229	229
Hingham	20,448	517,275	8,000	6,192	551,915	—	—	664,213	664,213
Holyoke	126,343	1,409,299	54,000	32,950	1,622,592	100,000*	—	2,182,193	2,282,193
Lowell	20,410	244,643	6,400	7,997	279,450	—	—	95,053	95,053
Lumber	239,624	1,566,355	56,435	34,060	1,896,474	—	250,000†	2,918,552	3,168,552
Lynn	26,470	379,841	10,485	10,386	427,182	—	—	510,708	510,708
Merchants and Farmers	14,728	260,126	5,065	10,013	289,932	—	—	204,318	204,318
Merrimack	186,821	2,727,138	85,500	77,432	3,076,891	100,000*	25,000	1,093,768	1,218,768
Middlesex	103,280	1,506,339	51,447	39,170	1,700,286	—	—	2,742,680	2,742,680
Mutual Fire Assurance	2,740	64,020	56	218	67,634	—	—	360,156	360,156
Newburyport	—	5,523	17	4	3,544	—	—	79,929	79,929
Norfolk and Dedham	103,045	1,285,623	33,000	34,487	1,456,155	—	—	1,346,361	1,346,361
Pioneer	17,931	63,886	2,049	3,101	86,967	25,000*	—	—	—
Quincy	140,900	2,630,745	70,623	24,967	2,867,235	—	—	2,990,385	2,990,385
Salem	8,857	139,968	2,219	2,230	137,274	—	—	75,346	75,346
Traders and Mechanics	64,639	899,778	35,000	20,361	1,020,078	—	—	814,482	814,482
United Mutual	843,771	8,183,262	254,000	548,772	9,829,805	—	748,337†	3,908,776	4,657,113
West Newbury	—	—	51	—	51	—	—	29	29
Worcester Mutual	113,687	1,380,773	74,184	40,893	1,609,537	—	—	3,716,467	3,716,467
Totals	\$2,634,289	\$28,883,428	\$942,962	\$1,255,741	\$33,721,420	\$425,000	\$1,313,337	\$27,806,630	\$29,544,967
Mutual Companies of Other States Other than Manufacturers									
Atlantic	—	—	—	—	—	—	—	—	—
Automobile	\$5,670,555	\$5,281,053	\$332,500	\$3,261,143	\$14,545,251	—	\$6,690,205	\$7,107,521	\$13,797,726
Central Manufacturers	20,282	291,409	30,600	306,397	648,688	\$250,000†	600,000	4,072,235	4,922,235
Employers	938,101	7,681,375	273,136	719,913	9,612,525	—	300,000	3,676,387	3,976,387
Grain Dealers	81,648	964,429	50,363	161,493	1,257,933	—	250,000	1,327,169	1,582,169
—	525,066	4,221,774	180,132	386,042	5,313,014	—	200,000	1,331,808	1,531,808



Hardware Dealers	534,330	7,031,021	224,927	591,065	8,381,393	3,371,523	4,081,198
Hardware Mutual	371,468	5,460,100	185,791	285,325	6,302,684	1,813,951	2,313,951
Indiana Lumbermen's	361,460	3,382,588	144,000	239,475	4,127,523	1,608,521	1,808,521
Lumbermen's	355,062	3,107,047	105,000	348,780	3,915,889	780,370	1,187,280
Manufacturers and Merchants	15,106	238,457	11,405	20,473	330,441	783,706	994,531
Manufacturers and Business Men's	57,448	3,451,247	50,500	50,147	695,512	125,000	2,454,555
Michigan Millers	529,812	2,407,303	113,400	256,300	4,350,759	1,522,532	1,772,532
Millers Mutual (Ill.)	293,037	2,407,303	67,778	180,407	2,928,525	200,000	2,288,865
Millers Mutual (Pa.)	93,530	731,939	38,000	68,511	831,980	1,103,805	1,503,806
Millers Mutual (Texas)	172,069	1,638,219	46,173	154,234	2,010,695	250,000	1,800,591
Millers National	709,697	4,891,848	150,000	587,098	6,338,643	1,043,604	2,085,162
Mill Owners Mutual (Iowa)	333,798	2,862,527	108,226	45,123	3,349,674	548,342	748,342
Mill Owners Mutual (Iowa)	11,823	169,781	6,043	2,789	190,436	83,116	110,616
Mutual Implement	517,533	7,485,063	250,000	444,987	8,697,583	500,000	2,060,746
National Retailers	437,891	3,371,469	194,276	280,722	4,293,358	1,090,135	1,600,135
Northwestern Mutual	1,000,522	12,208,635	364,438	901,783	14,475,370	3,219,315	3,219,315
Pawucket	118,653	1,795,148	58,239	116,944	2,018,964	134,947	1,344,947
Pennsylvania Lumbermen's	366,746	2,465,824	134,526	304,005	3,806,411	231,888	2,612,603
Pennsylvania Millers	165,541	1,439,970	64,300	130,474	1,800,485	625,000	3,297,396
Phoenix	12,985	226,765	8,424	33,976	283,250	272,323	456,918
Providence Mutual	10,774	393,969	12,075	6,186	399,004	1,444,774	1,444,774
Union Mutual	128,606	1,386,388	54,200	265,106	1,831,300	154,560	654,560
Utica (Mutual)	23,144	339,744	6,044	13,037	383,969	323,859	323,859
Vermont	45,017	612,630	22,050	147,849	725,196	509,607	559,607
<b>Totals</b>	<b>\$13,862,823</b>	<b>\$85,993,230</b>	<b>\$3,292,644</b>	<b>\$10,300,784</b>	<b>\$113,449,481</b>	<b>\$13,923,282</b>	<b>\$65,373,195</b>
<i>Massachusetts Manufacturers' Mutuals</i>							
Arkwright	\$333,750	\$5,306,016	\$114,000	\$87,852	\$5,841,618	—	\$6,444,170
Boston Manufacturers	847,618	11,216,701	219,586	461,202	12,745,107	\$190,900	9,996,705
Cotton and Woollen	258,684	3,877,014	83,438	73,244	4,292,380	—	4,555,877
<b>Totals</b>	<b>\$1,440,052</b>	<b>\$20,399,731</b>	<b>\$417,024</b>	<b>\$622,298</b>	<b>\$22,879,105</b>	<b>\$190,900</b>	<b>\$21,187,652</b>
<i>Manufacturers' Mutuals of Other States</i>							
Blackstone	\$332,390	\$6,074,618	\$92,000	\$169,645	\$6,668,653	—	\$6,022,647
Firemen's	512,891	8,465,544	182,700	168,526	9,329,661	200,000	7,341,197
Manufacturers Mutual	883,048	19,066,744	440,990	333,990	20,733,782	400,000	20,553,233
Philadelphia Manufacturers	115,788	2,134,176	40,000	43,183	2,333,147	—	1,790,710
Protection Mutual	151,028	2,627,724	51,367	58,578	2,888,697	—	2,419,205
What Cheer	138,006	2,693,163	58,275	192,071	3,081,515	—	2,557,554
<b>Totals</b>	<b>\$2,133,151</b>	<b>\$41,061,969</b>	<b>\$864,342</b>	<b>\$965,993</b>	<b>\$45,025,455</b>	<b>\$600,000</b>	<b>\$40,123,546</b>

\*Guaranty capital.

†Includes guaranty fund.

TABLE 8.—*Liabilities Dec. 31, 1946*—Continued

COMPANIES	Net Unpaid Losses	Unearned Premiums	Taxes Due or Accrued	All Other Liabilities	Total Liabilities, except Capital	Surplus to Policyholders			Total
						Capital	Contingent Reserves	Unassigned Funds	
Massachusetts Stock Companies									
Boston	\$2,669,604	\$8,914,514	\$241,245	\$1,193,086	\$13,018,449	\$3,000,000	\$991,007	\$15,019,518	\$19,010,615
Employers	1,310,345	5,000,373	248,000	258,184	7,425,902	1,000,000	219,828	1,995,203	3,215,031
Massachusetts Fire and Marine	159,955	995,029	40,500	30,000	1,226,084	1,000,000	—	1,810,249	2,810,249
New England	123,532	742,777	22,500	45,035	933,844	1,000,000	—	1,365,639	2,365,639
Old Colony	1,144,116	3,820,506	103,391	178,239	5,246,252	1,000,000	1,026,356	6,802,000	8,328,556
Saratoga	123,309	742,777	23,000	47,035	936,121	1,000,000	—	1,373,029	2,373,029
Springfield Fire and Marine	4,200,352	25,254,421	721,500	1,249,054	31,425,327	5,000,000	550,317	14,285,356	19,853,679
Totals	\$9,731,213	\$46,079,997	\$1,400,136	\$3,000,633	\$60,211,879	\$13,000,000	\$2,757,598	\$42,350,994	\$58,138,592
Stock Companies of Other States									
Actna	\$12,542,082	\$39,739,011	\$1,260,000	\$4,404,864	\$57,945,957	\$7,500,000	\$1,011,634	\$19,679,186	\$28,190,820
Agricultural	3,089,594	10,802,774	351,200	695,747	14,889,315	3,000,000	300,000	4,157,844	7,457,844
Albany	130,229	855,530	49,829	86,186	1,225,774	1,000,000	—	1,550,213	2,550,213
Allemania	989,941	2,551,915	75,917	146,738	3,374,511	1,200,000	—	2,545,561	3,745,561
Alliance (Pa.)	1,768,592	6,715,846	251,535	693,690	9,429,663	1,000,000	2,083,235	4,001,330	7,084,565
Allied Fire (Utica)	60,504	633,282	15,002	56,288	765,076	400,000	—	316,253	716,253
American (N. J.)	8,119,056	29,712,518	781,000	4,722,499	43,335,073	3,343,740	—	17,348,359	20,692,099
American Alliance	645,476	4,003,881	132,000	142,329	4,923,586	3,000,000	—	4,737,548	7,737,548
American Automobile	698,785	4,106,681	241,515	121,902	5,168,883	600,000	—	1,664,085	2,264,085
American Aviation	217,707	1,228,396	100,358	175,076	1,722,037	500,000	—	371,708	871,708
American Central	703,294	4,540,730	178,200	317,990	5,740,214	1,000,000	—	2,742,526	3,742,526
American Druggists	20,172	280,285	99,686	4,192	404,335	750,000	—	1,294,917	2,044,917
American Eagle	3,715,094	8,753,977	351,500	2,256,718	15,079,289	5,000,000	—	16,061,222	21,061,222
American Equitable	1,781,850	13,620,956	189,600	2,090,773	17,683,179	1,500,000	—	3,059,482	4,559,482
American and Foreign	1,475,969	2,672,631	155,005	203,705	4,507,311	1,500,000	—	4,303,294	5,803,294
American National	—	—	33,000	1,500	34,500	500,000	—	967,901	1,467,901
American Reserve	932,898	3,774,736	10,000	346,241	5,063,875	1,000,000	200,000	1,418,832	2,618,832
American Union	61,393	762,048	79,803	33,324	836,568	1,000,000	—	2,241,734	3,241,734
Anchor	342,373	1,127,840	35,500	14,400	1,520,113	1,000,000	50,000	1,320,010	2,370,010
Automobile	7,885,261	20,472,142	828,132	2,065,357	31,050,892	5,000,000	21,650,048	8,915,631	16,080,679
Baltimore American	688,027	3,467,730	76,500	76,157	4,508,414	1,500,000	—	2,733,001	4,233,001
Bankers and Shippers	508,099	4,461,677	125,468	101,820	5,197,064	1,000,000	—	2,496,617	3,496,617
Birmingham (Pa.)	74,463	400,218	54,161	7,717	536,559	1,000,000	—	1,208,309	2,208,309
Buffalo	442,899	3,824,381	140,000	95,669	4,502,949	1,000,000	700,000	1,994,587	3,694,587
Builders	167,034	966,340	20,000	54,685	1,208,059	500,000	—	749,253	1,249,253
Caledonian-American	497,980	2,762,514	108,400	240,611	3,539,505	1,000,000	31,000	1,795,085	2,826,085
California	2,964,724	10,584,237	310,000	409,979	13,698,950	2,000,000	400,000	4,138,592	6,538,592
Carden	250,725	800,375	32,789	81,283	1,165,172	1,000,000	15,399	1,021,219	2,036,618
Capital (Cal.)	3,222	68,517	5,281	585	77,905	202,400	—	276,335	478,735
Capital (N. H.)	328,244	1,321,113	27,000	34,154	1,710,511	500,000	—	1,025,074	1,525,074
Centennial	989,650	935,277	134,000	785,369	2,844,296	1,500,000	—	881,395	2,381,395

Central States	747	427,110	427,857	1,000,000	1,000,000	1,146,772	2,146,772
Central Union	27,300	70,987	457,837	500,000	500,000	1,168,476	1,668,476
Charter Oak	28,064	48,144	1,606,563	1,000,000	1,000,000	1,611,905	2,611,905
Church Properties	7,355	59,268	104,812	300,000	300,000	475,199	775,199
Citizens (N. J.)	360,888	66,196	792,400	1,000,000	1,000,000	2,538,797	3,538,797
City of New York	49,500	56,865	3,514,621	1,500,000	1,500,000	3,167,508	3,167,508
Columbia (N. Y.)	73,605	292,531	3,213,554	1,000,000	1,000,000	904,143	1,904,143
Columbia (Ohio)	182,579	27,876	1,462,630	1,000,000	1,000,000	2,266,061	3,266,061
Commerce	1,019,907	27,438	3,954,228	1,000,000	1,000,000	2,171,001	3,614,640
Commercial Union (N. Y.)	340,211	129,493	2,750,691	1,000,000	1,000,000	619,112	1,619,112
Commonwealth	554,198	213,663	4,182,377	1,000,000	1,000,000	4,460,892	5,460,892
Concordia	666,972	70,830	3,955,250	1,000,000	1,000,000	1,354,623	2,354,623
Connecticut	2,663,586	10,168,525	14,371,895	2,000,000	2,000,000	15,508,212	17,508,212
Continental	12,183,083	33,732,126	3,498,271	20,000,000	20,000,000	86,478,902	106,478,902
County	160,205	1,060,000	1,292,214	1,000,000	1,000,000	1,154,996	2,154,996
Detroit Fire and Marine	281,042	1,780,572	2,167,614	1,000,000	1,000,000	2,278,219	3,278,219
Dixie	91,289	606,537	728,561	1,000,000	1,000,000	1,213,463	2,213,463
Dubuque Fire and Marine	850,509	336,540	5,831,433	1,150,000	1,150,000	984,037	2,014,037
Eagle (N. Y.)	138,333	72,440	1,230,315	1,000,000	1,000,000	449,966	1,449,966
East and West	472,736	63,690	2,488,500	1,000,000	1,000,000	1,640,016	2,640,016
Empire State	741,078	97,500	3,588,547	1,000,000	1,000,000	1,086,852	2,186,852
Equitable Fire and Marine	544,429	2,663,705	2,716,777	1,000,000	1,000,000	5,953,876	6,953,876
Excelsior	87,287	585,790	1,110,459	480,000	480,000	248,442	728,442
Export	35,867	60,480	345,547	500,000	500,000	543,788	1,043,788
Farmers (Pa.)	243,093	40,819	1,749,912	—	—	2,249,585	2,249,585
Federal	3,846,577	4,874,519	12,454,080	4,000,000	4,000,000	14,987,244	21,492,338
Federal Union	997,138	1,334,434	2,626,319	1,000,000	1,000,000	1,277,763	2,281,416
Fidelity and Guaranty	1,389,723	9,491,767	11,446,283	2,000,000	2,000,000	5,639,044	7,854,978
Fidelity Phenix	11,281,028	26,348,509	41,997,779	15,000,000	15,000,000	73,144,039	88,144,039
Fire Association	3,376,102	15,661,026	20,136,916	2,400,000	2,400,000	10,711,263	13,111,263
Firemen's Fund	25,246,730	28,353,416	70,722,725	5,000,000	5,000,000	24,762,461	34,848,431
Fremans (D. C.)	37,694	387,790	453,733	300,000	300,000	499,119	810,537
Fremans (N. J.)	57,116,900	26,876,247	38,966,022	9,397,590	9,397,590	8,122,550	17,520,040
First National	138,644	2,140,280	2,482,539	1,000,000	1,000,000	393,030	1,393,030
Franklin Fire	3,223,691	11,547,975	15,082,596	3,000,000	3,000,000	8,904,115	11,904,115
Franklin National	172,829	1,013,266	1,256,872	1,000,000	1,000,000	3,012,366	4,412,366
Fulton	—	20,000	20,000	400,000	400,000	987,702	1,987,702
General Exchange	459,526	9,917,458	11,539,398	1,000,000	1,000,000	8,096,143	16,418,273
General Insurance	3,030,568	19,013,842	25,555,204	1,000,000	1,000,000	10,396,635	11,396,635
Gibraltar Fire and Marine	450,343	1,959,080	2,479,304	1,000,000	1,000,000	1,105,485	2,105,485
Gird Fire and Marine	666,972	3,578,839	4,407,966	1,000,000	1,000,000	1,221,450	2,221,450
Glens Falls	5,779,476	15,797,000	24,526,757	2,500,000	2,500,000	8,095,658	12,526,126
Globe and Republic	742,433	5,675,998	6,752,726	1,000,000	1,000,000	8,082,235	1,969,235
Globe and Rutgers	1,714,533	5,355,154	9,276,611	1,000,000	1,000,000	4,005,191	5,965,391
Granite State	491,645	3,119,759	3,715,059	1,000,000	1,000,000	1,476,537	2,476,537
Great American	5,415,362	24,702,042	33,227,311	8,150,000	8,150,000	32,556,348	40,766,348
Hanover	—	1,417,210	18,562,968	500,000	500,000	7,369,121	11,869,121
Hartford	17,206,957	67,172,570	92,818,002	12,000,000	12,000,000	95,580,313	115,564,179



TABLE 8.—*Liabilities Dec. 31, 1946—Continued*

COMPANIES	Net Unpaid Losses	Unearned Premiums	Taxes Due or Accrued	All Other Liabilities	Total, Liabilities, except Capital	Surplus to Policyholders			Total
						Capital	Contingent Reserves	Unassigned Funds	
Stock Companies of Other States—Continued									
Home	\$19,931,973	\$77,424,961	\$3,944,218	\$9,002,155	\$110,303,307	\$15,000,000	—	\$52,285,404	\$67,285,404
Home Fire and Marine	—	5,717,833	174,295	1,890,353	11,104,075	1,000,000	—	2,791,730	4,541,730
Homestead	3,351,594	2,002,514	94,560	127,346	2,578,444	1,000,000	—	1,389,842	2,939,842
Imperial Assurance	445,493	1,680,646	25,000	35,124	2,168,263	1,000,000	—	909,521	1,909,521
Insurance Co. of North America	375,620	2,292,100	90,895	224,668	2,683,283	1,000,000	5,881	1,278,161	2,924,042
Insurance Co. of the State of Pa.	18,873,669	41,355,725	2,194,775	6,388,277	68,812,446	15,000,000	—	85,006,532	127,778,042
Inter-Ocean	322,136	2,394,048	135,225	480,879	3,332,288	1,000,000	—	1,231,837	2,937,537
Jersey	587,179	3,740,202	76,297	61,987	4,409,696	500,000	—	1,537,724	2,937,724
Lumbermens (Pa.)	325,556	2,850,515	76,999	55,078	3,307,448	1,000,000	—	1,396,435	2,998,435
Manhattan Fire and Marine	514,777	2,417,266	62,285	200,531	2,391,964	1,000,000	10,000	2,388,409	3,388,409
Mechanics and Traders	253,475	2,025,295	63,748	49,446	2,719,614	1,000,000	—	3,810,472	1,971,775
Mercantile	363,107	2,138,692	69,580	148,565	2,406,344	1,000,000	—	3,310,414	4,805,414
Mercants (N. Y.)	588,115	3,366,814	142,965	205,475	4,303,369	1,000,000	—	13,608,733	17,237,250
Merchants and Manufacturers	1,209,137	3,405,239	49,400	637,974	5,467,127	3,000,000	678,557	947,621	1,947,621
Merchants (Colo.)	445,631	1,670,698	37,451	375,694	2,416,344	400,000	14,500	562,904	977,404
Mercury	157,541	5,091,149	151,400	168,654	6,249,685	2,000,000	—	1,836,984	3,836,984
Michigan Fire and Marine	1,145,482	2,971,108	84,500	128,638	3,678,378	1,000,000	—	1,714,678	2,714,678
Milwaukee Mechanics	494,132	2,971,108	224,000	163,813	10,708,977	2,000,000	—	4,062,443	6,062,443
Minneapolis Fire and Marine	1,810,332	8,510,812	233	896,016	896,249	1,000,000	—	1,812,557	2,812,557
National Fire	4,908,437	28,745,952	938,825	2,206,312	36,799,526	5,000,000	4,000,000	20,225,899	29,225,899
National Ben Franklin	666,972	3,135,562	82,000	78,305	3,962,839	1,000,000	—	1,234,175	2,234,175
National Grange	40,400	202,159	35,027	65,312	348,898	250,000	33,635	197,089	480,724
National Liberty	2,689,901	10,657,438	200,000	223,421	13,770,760	4,000,000	—	8,957,013	12,957,013
Newark	3,375,613	15,855,482	381,065	4,203,351	23,815,511	1,000,000	1,000,000	3,701,489	5,801,489
New Brunswick	1,755,482	5,865,857	210,492	527,499	8,359,330	2,000,000	—	4,751,556	6,751,556
New Hampshire	687,794	2,847,969	61,600	58,066	3,655,429	1,000,000	—	1,650,713	2,650,713
New York Fire	2,255,739	10,707,093	225,000	900,691	14,088,523	3,000,000	—	6,827,127	9,827,127
New York Underwriters	742,438	5,675,398	79,000	361,522	6,858,358	1,000,000	—	1,951,533	2,951,533
Niagara	910,406	2,586,315	150,000	191,527	3,838,248	2,000,000	—	6,199,458	8,599,458
North American Fire and Marine	1,443,173	13,148,657	292,500	245,998	15,130,328	5,000,000	400,000	20,424,465	25,424,465
Northern (N. Y.)	21,947	106,706	2,000	1,700	132,353	1,000,000	—	1,089,997	2,089,997
North River	851,521	7,806,334	220,000	228,218	9,106,073	1,000,000	133,000	5,372,474	6,505,474
Northwestern Fire and Marine	3,495,809	10,307,045	458,000	785,449	15,045,303	2,000,000	—	17,108,068	19,108,068
Northwestern National	318,824	859,088	32,250	73,952	1,284,114	1,000,000	172,500	1,194,848	2,367,348
Ohio Farmers	915,187	4,164,310	241,000	306,615	10,627,112	2,000,000	9,021,003	9,021,003	12,521,003
Orient	591,385	4,716,300	132,324	689,086	6,129,045	1,000,000	—	2,889,204	3,489,204
Pacific	290,775	2,967,484	125,100	593,576	3,976,935	1,000,000	27,000	3,329,292	3,329,292
Pacific National	690,936	5,081,354	151,233	418,771	6,312,294	1,000,000	—	3,154,582	4,154,582
Patriotic	842,993	7,817,297	263,165	309,979	9,233,436	1,250,000	2,432,554	3,701,532	7,384,086
Patriotic	383,767	1,531,764	33,800	103,699	2,055,030	1,000,000	—	1,088,873	2,088,873

Paul Revere	429,899	1,717,688	52,000	32,897	2,232,484	1,523,789	9,231,789
Rensselaer	1,135,727	4,859,843	331,025	407,066	10,333,691	8,573,743	9,573,743
Philadelphia Fire and Marine	2,204,760	8,631,482	287,810	374,295	11,398,347	15,000,640	23,312,633
Philadelphia National	219,355	863,132	30,840	68,244	1,274,071	1,613,087	2,615,087
Phoenix	4,514,108	16,850,698	660,787	2,223,915	24,258,633	40,432,136	56,952,136
Piedmont	615,117	3,150,003	97,400	112,708	3,376,820	829,390	1,829,390
Potomac	618,712	4,456,386	148,750	236,212	5,440,060	2,250,760	2,250,760
Providence Washington	3,081,359	10,150,561	319,500	1,133,523	14,634,948	7,324,193	10,959,483
Providence	676,681	1,763,496	32,249	64,523	2,536,539	1,067,923	1,767,923
Quaker City	322,608	901,739	38,500	168,085	1,430,930	545,077	1,045,077
Queen	4,276,482	15,265,859	515,890	1,781,355	21,839,556	8,259,237	13,259,237
Richmond	338,708	1,596,833	47,360	177,064	2,159,965	2,472,566	3,472,566
Richmond	331,140	1,481,882	53,500	219,035	2,535,557	3,050,047	4,050,047
Rochester American	281,042	1,780,571	71,000	35,000	2,167,613	3,005,637	4,005,637
Safeguard	121,156	1,243,105	41,150	361,960	1,767,371	1,083,516	2,094,766
Seaboard	661,325	1,684,322	39,000	100,331	2,484,978	621,494	1,621,494
Seaboard Fire and Marine	215,804	718,195	39,627	44,894	1,018,520	1,313,915	1,313,915
Security	2,308,066	9,187,700	318,295	928,438	12,742,499	4,703,570	7,203,570
Standard (Conn.)	509,079	4,624,030	145,339	178,893	5,457,341	2,391,046	3,944,024
Standard (N. J.)	172,000	1,895,797	21,000	136,548	2,225,340	1,258,548	1,758,548
Standard (N. Y.)	1,728,083	5,776,773	170,000	232,272	7,907,128	2,482,095	3,962,095
Star	1,247,289	4,439,242	151,057	275,203	6,112,791	2,161,608	3,161,608
Star, Paul Fire and Marine	7,394,695	20,105,181	836,000	2,658,037	30,991,913	39,786,070	39,786,070
Sun Underwriters	223,282	1,030,073	23,500	72,667	1,349,522	355,545	985,545
Surety	174,897	632,155	27,319	3,867	838,238	1,668,274	1,668,274
Transcontinental	184,876	1,042,770	30,800	31,857	1,290,103	3,081,048	4,331,048
Travelers	4,303,083	27,689,886	683,951	1,604,459	34,281,349	8,173,909	11,060,823
United Firemen's	407,596	2,773,343	103,035	248,765	3,533,739	1,908,220	1,908,220
United States Fire	5,620,879	18,710,029	727,000	2,648,473	27,111,833	25,904,049	27,904,049
Universal	1,525,949	423,388	37,700	1,106,589	3,293,826	1,781,115	1,781,115
Vigilant	831,767	748,874	127,894	432,745	2,191,190	2,695,926	3,695,926
Virginia Fire and Marine	314,200	1,894,813	50,435	56,437	2,314,585	1,944,886	1,944,886
Washington	38,115	396,489	25,000	13,022	472,626	2,576,217	2,576,217
Washington Assurance	4,512,792	9,430,079	410,000	1,717,978	10,670,572	12,544,059	13,544,059
Westchester	1,555,258	2,108,984	74,010	1,017,438	4,765,690	3,694,949	3,694,949
Western National	741,417	3,078,395	109,800	259,279	4,168,391	2,192,676	5,162,676
Western Fire and Marine	144,395	502,820	29,000	8,685	684,900	1,173,521	2,173,521
Zurich							
Totals	\$502,262,457	\$1,088,122,687	\$39,648,992	\$131,064,289	\$1,501,098,425	\$87,322,499	\$1,504,891,954</

Totals	.	.	.	.	.	\$302,202,487	\$1,088,122,687	\$39,648,902	\$131,064,289	\$1,561,098,425	\$326,223,600	\$87,322,499	\$1,091,345,855	\$1,504,891,954
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TABLE 8.—*Liabilities Dec. 31, 1914—Concluded*

COMPANIES	Net Unpaid Losses	Unearned Premiums	Taxes Due or Accrued	All Other Liabilities	Total Liabilities, except Capital	Surplus to Policyholders			Total
						Deposit Capital*	Contingent Reserves	Unassigned Funds	
United States Branches, Companies of Other Countries									
Alliance Assurance	\$1,433,763	\$694,635	\$126,000	\$609,389	\$2,863,787	\$400,000	-	\$2,401,906	\$2,801,906
Atlas Assurance	1,063,929	3,138,236	204,492	750,981	7,147,638	400,000	-	2,369,978	2,769,978
British America	384,170	1,015,386	33,000	68,154	1,500,710	300,000	-	1,823,749	2,123,749
British and Foreign Marine	1,622,031	1,749,257	110,683	170,985	3,652,937	400,000	-	2,712,906	3,112,906
British General	102,156	655,635	25,800	40,102	823,693	400,000	-	333,230	733,230
Caledonian	889,525	3,469,793	73,000	141,809	4,574,127	400,000	-	907,787	1,307,787
Century	1,120,802	1,987,889	174,282	156,045	4,349,018	400,000	-	2,640,168	3,040,168
Commercial Union Assurance	2,561,336	9,110,386	389,749	681,026	12,742,497	400,000	\$62,000	6,738,510	7,255,510
Eagle Star	1,366,341	326,947	35,000	1,086,322	2,835,110	400,000	-	1,832,200	2,232,200
Indemnity Marine	802,296	288,971	37,000	179,099	1,307,366	300,000	-	770,369	1,070,369
Law Union and Rock	97,016	1,015,330	33,650	326,896	1,472,892	300,000	9,000	783,544	1,092,544
Liverpool and London and Globe	4,092,519	15,006,379	534,983	967,157	20,601,038	400,000	-	7,184,355	7,584,355
London Assurance	2,220,252	5,259,756	223,923	732,221	8,436,003	400,000	20,000	4,443,003	4,863,003
London and Lancashire	462,697	4,732,125	156,350	1,200,010	6,551,182	400,000	42,750	1,672,653	2,115,403
London and Scottish	85,475	539,104	650	15,076	640,305	300,000	-	828,012	1,128,012
Marine	2,010,067	972,940	226,500	1,091,802	4,301,309	400,000	-	4,005,965	4,405,965
Netherlands	284,941	1,497,621	32,500	22,041	1,837,103	400,000	-	590,071	990,071
North British and Mercantile	2,461,331	10,536,323	411,075	731,152	14,139,881	400,000	-	4,913,132	5,313,132
Northern Assurance	1,651,439	6,996,687	248,000	1,009,849	9,905,975	400,000	-	1,607,224	2,007,224
Norwich Union	1,443,447	4,678,334	171,071	673,683	6,966,535	400,000	-	1,380,316	1,380,316
Ocean Marine	464,544	101,191	65,920	186,187	817,842	300,000	-	624,819	924,819
Pacific Coast	280,201	496,357	26,071	60,388	863,517	400,000	-	777,559	1,177,559
Palatine	239,206	1,534,179	60,200	59,465	1,893,050	400,000	-	1,960,736	1,960,736
Phoenix Assurance	885,334	5,419,823	236,240	225,789	6,767,186	400,000	-	1,854,232	2,254,232
Royal	4,635,377	15,626,170	634,445	1,474,025	22,370,017	400,000	-	9,534,646	9,934,646
Royal Exchange	1,743,811	3,823,821	118,396	428,538	6,114,566	400,000	-	1,735,103	2,135,103
Scottish Union and National	632,076	5,436,432	138,800	111,689	6,618,777	400,000	-	2,821,428	3,221,428
Sea	2,157,860	1,414,936	221,000	1,734,915	4,928,761	400,000	-	3,101,960	3,501,960
Standard Marine	1,717,533	2,312,007	61,000	736,267	4,846,807	400,000	-	3,292,083	3,692,083
State Assurance	155,678	631,968	23,495	35,548	1,146,989	300,000	-	822,983	1,122,983
Sun	2,257,811	5,591,293	120,616	683,243	8,677,963	400,000	-	1,373,441	1,773,441
"Switzerland" General	1,038,377	1,971,520	25,000	30,722	2,365,623	400,000	-	1,150,333	1,550,333
Thames and Mersey	1,006,782	924,713	68,024	112,122	2,111,641	400,000	-	1,563,965	1,963,965
Union Assurance	239,206	1,534,179	90,200	66,924	1,900,509	400,000	-	781,588	1,181,588
Union of Canton	1,767,107	2,160,334	52,000	391,038	4,371,079	400,000	-	2,132,404	2,532,404
Union Marine	996,392	1,144,257	59,419	605,028	2,805,096	400,000	-	1,563,876	1,963,876
Western Assurance	1,042,405	2,123,602	79,000	227,058	3,472,065	400,000	-	2,639,800	3,039,800
Yorksire	614,639	3,278,039	79,000	312,918	4,284,596	300,000	-	438,425	738,425
Totals	\$48,219,872	\$130,897,714	\$5,415,314	\$17,562,444	\$202,095,344	\$14,500,000	\$133,750	\$86,823,719	\$101,457,469



<i>Recapitulation</i>									
Massachusetts mutual companies other than manu- facturers' (29 companies)	\$2,634,289	\$28,888,428	\$942,962	\$1,255,741	\$33,721,420	\$425,000	\$1,313,337	\$27,806,630	\$29,544,967
Mutual companies of other states other than manu- facturers' (29 companies)	13,862,823	85,963,230	3,292,644	10,300,784	113,449,481	1,072,920	13,923,282	49,776,963	65,373,195
Massachusetts manufacturers' mutuals (3 companies)	1,440,052	20,399,731	417,024	622,298	22,879,105	—	190,000	20,996,752	21,187,652
Manufacturers' mutuals of other states (6 companies)	2,133,151	41,061,969	864,342	965,993	45,025,455	—	600,000	40,123,546	40,723,546
Massachusetts stock companies (7 companies)	9,731,213	46,079,997	1,400,136	3,000,633	60,211,979	13,000,000	2,787,598	42,350,904	58,138,592
Stock companies of other states (167 companies)	302,262,487	1,088,122,687	39,648,962	131,064,289	1,561,093,425	326,223,600	87,322,499	1,091,345,855	1,504,891,954
United States branches, companies of other countries (38 companies)	48,219,872	130,897,714	5,415,314	17,562,444	202,093,344	14,500,000*	133,750	86,823,719	101,457,469
Totals (269 companies)	\$380,283,887	\$1,441,443,756	\$51,981,384	\$164,772,182	\$2,038,481,209	\$355,821,520	\$106,271,366	\$1,359,224,489	\$1,821,317,375

\*Minimum amount which must be deposited with some State department by insurance companies of other countries for the protection of all policyholders in the United States before they can be admitted to transact business in Massachusetts.

TABLE 9.—*Massachusetts Business—Net Premiums written during 1946*

COMPANIES	Fire	Extended Coverage	Tornado Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earth- quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>Massachusetts Mutual Companies</i>													
<i>Other than Manufacturers</i>													
Albion	\$192,926	\$16,806	\$336	\$321	\$14	\$74	—	—	\$24,652	—	\$18,212	—	—
Allied American	55,677	4,484	10	751	252	35	—	\$148,931	—	\$72	—	—	—
Associated Merchants	48,624	2,561	—	141	—	—	—	1,385	—	1,058	—	—	—
Attleborough	38,973	3,247	—	4	—	—	—	5,775	—	—	—	—	—
Barnstable County	98,801	7,821	—	—	—	—	—	—	—	—	—	—	—
Berkshire	275,716	17,273	136	522	86	120	—	83,255	—	3,813	—	—	—
Cambridge	268,415	22,316	168	54	54	78	—	62,030	—	—	—	—	—
Dorchester	209,800	20,779	—	193	45	3	—	19,877	—	—	—	—	—
Federal	287,470	34,505	416	1,677	402	82	—	136,635	—	27,125	1,290	—	—
Fitchburg	118,961	12,010	66	79	—	139	—	34,626	—	—	—	—	—
Groveland	—	—	—	—	—	—	—	—	—	—	—	—	—
Hingham	316,180	34,606	122	196	—	71	—	—	—	—	—	—	\$25
Holyoke	305,868	31,170	1,039	774	—	255	—	194,904	—	—	—	—	—
Lowell	74,936	6,228	72	121	—	38	—	35,741	—	—	—	—	—
Lumber	82,305	8,164	39	2,506	221	78	—	5,965	—	717	—	—	163
Lynn	111,396	9,677	61	164	—	42	—	39,228	—	—	—	—	—
Merchants and Farmers	117,384	13,031	75	165	—	189	—	21,791	—	—	—	—	—
Merrimack	364,432	37,434	188	1,086	82	237	—	55,699	—	—	25	—	—
Middlesex	445,535	38,707	245	685	1	170	—	149,064	—	—	—	—	—
Mutual Fire Assurance	29,191	3,210	—	—	—	—	—	—	—	—	—	—	—
Newburyport	3,772	—	—	—	—	—	—	—	—	—	—	—	—
Norfolk and Dedham	381,835	41,707	68	716	—	252	—	30,907	—	—	169	—	392
Pioneer	25,323	1,665	—	—	—	—	—	84,260	—	1,628	—	—	65,623
Quincy	814,946	84,506	471	1,462	—	270	—	134,181	—	—	—	—	—
Salmon	62,844	5,667	14	77	8	21	—	18,110	—	—	—	—	—
Traders and Mechanics	180,771	15,683	228	399	55	116	—	40,475	—	—	—	—	—
United Mutual	557,838	69,847	1,945	5,732	1,507	2,142	—	431,293	—	185,815	8,743	—	—
West Newbury	4,884	—	—	—	—	—	—	—	—	—	—	—	—
Worcester Mutual	381,868	51,290	377	583	195	252	—	113,696	—	—	—	—	—
Totals	\$5,849,171	\$594,394	\$5,909	\$18,846	\$2,922	\$4,664	—	\$1,717,848	\$24,652	\$220,728	\$28,439	—	\$66,203
<i>Mutual Companies of Other States</i>													
<i>Other than Manufacturers</i>													
Atlantic	—	—	—	—	—	—	—	—	—	—	—	—	—
Automobile	\$72,962	\$6,657	\$—12	\$2,946	\$361	\$—132	—	\$7,948	\$264,196	\$91,488	—	\$57,082	—
Central Manufacturers	331,074	43,212	19	3,468	793	173	—	150,730	9	88,556	—	—	—
Employers	18,772	2,313	—	8	20	—	—	21,770	—	386	—	—	—
Grain Dealers	47,453	4,278	—	615	362	105	—	4,989	—	2,275	—	—	—
Hardware Dealers	153,403	16,334	—	594	40	44	—	359	—	5,984	—	—	—
			4					41,788	—				\$—29

Hardware Mutual	23,141	1,101	-	73	3	-	-	1,851	-	307	-
Indiana Lumbermen's	53,067	4,541	-5	594	331	112	-	282	-	516	-
Lumbermen's	37,477	3,115	-7	547	293	92	-	1,047	-	485	-
Manufacturers and Merchants	52,830	5,586	-	-	-	-	-	8,761	-	-	-
Manufacturers and Business Men's	52,782	336	-	-	-	-	-	-	-	-	-
Michigan Millers	79,750	10,083	2	453	16	118	-	2,213	-	2,240	-
Millers Mutual (Ill.)	37,374	3,978	13	550	448	112	-	-	-	369	-
Millers Mutual (Pa.)	33,926	3,662	95	570	305	112	-	-	-	292	-
Millers Mutual (Texas)	23,793	2,718	40	262	179	52	-	-	-	72	-
Millers National	103,110	10,186	3	405	212	86	-	-	-	10,275	47
Mill Owners Mutual (Iowa)	56,681	5,424	10	235	124	17	-	3,632	2,625	-	681
Mutual of Saco	19,442	1,825	4	760	341	91	-	4,920	-	-	-
Mutual Implement	139,171	16,867	19	127	41	44	-	41,770	-	5,846	-
National Retailers	128,626	16,799	107	1,056	262	96	-	681	\$50	9,853	-
Northwestern Mutual	133,050	12,670	20	1,122	316	110	-	92	-	2,028	-
Pawtucket	234,738	18,539	140	340	18	51	-	52,413	-5	-	-
Pennsylvania Lumbermen	64,513	5,266	7	855	503	78	-	70	-	410	-
Pennsylvania Millers	58,141	5,134	90	643	308	101	-	255	-	255	-
Phoenix	42,264	4,468	-	-	-	-	-	7,009	-	-	-
Providence Mutual	108,566	-	-	-	-	17	-	-	-	-	-
Union Mutual	115,881	16,013	73	889	139	119	-	-	8,705	-	-
Utica (Mutual)	31,975	2,582	-	-	-	-	-	-	-	-	-
Vermont	33,291	2,847	-	2	-	-	-	-	-	-	-
Totals	\$2,234,283	\$224,784	\$610	\$15,120	\$5,333	\$1,488	-	\$352,305	\$8,750	\$222,099	\$1,005

## Massachusetts Manufacturers'

## Mutuals

	1907	1908	1909	1910	1911	1912	1913	1914	1915	Total
Arkwright	-	\$476,939	-	-	-	-	-	-	-	-
Boston Manufacturers	-	931,463	-	-	-	-	-	-	-	-
Cotton and Woollen	-	397,107	-	-	-	-	-	-	-	-
Totals	-	\$1,805,509	-	-	-	-	-	-	-	-

## Manufacturers' Mutuals of

*Other States*

[illegible]



TABLE 9.—*Massachusetts Business—Net Premiums written during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>Massachusetts Stock Companies</i>												
Boston	\$918,961	\$86,701	\$896	\$411	\$965	-	\$229,140	\$455,050	\$207,884	-	\$17,373	\$661
Employers	257,119	23,429	220	1,330	140	-	204,205	-	139,289	\$1,534	-	-
Mass. Fire and Marine	153,837	10,154	148	-144	251	-	27,017	-	4,537	2,503	-	-
New England	39,012	2,573	88	330	102	\$129	4,596	28	3,204	166	13	22
Old Colony	280,477	26,768	336	141	297	-	79,594	235,846	35,848	-	1,991	295
Sentinel	29,012	2,573	88	316	102	129	4,596	28	3,204	166	13	22
Springfield Fire and Marine	986,423	87,472	2,997	10,746	3,477	4,380	156,276	946	108,923	5,635	444	738
Totals	\$2,660,341	\$239,670	\$4,703	\$13,116	\$5,334	\$4,638	\$998,424	\$691,898	\$502,709	\$10,004	\$19,834	\$1,738
<i>Stock Companies of Other States</i>												
Aetna	\$889,868	\$87,392	\$3,953	\$12,213	\$5,010	\$3,404	\$109,645	\$209,484	\$177,383	\$4,898	-	\$1,259
Agricultural	269,482	25,028	229	143	436	-	87,778	68,064	80,022	9	\$4,747	-
Albany	32,951	3,405	51	62	-	-	19,558	-	122	3	-	-
Allennania	79,716	6,140	35	-	42	-	5,076	-	15	321	-	-
Alliance (Pa.)	140,033	12,507	322	701	177	1,210	55,700	166	35,319	-	8	2,067
Allied Fire (Utica)	26,993	2,681	-	-	-	-	1,343	-	-	-	-	-
American (N. J.)	396,746	30,044	6,957	3,538	540	-	27,106	83,251	68,502	209	14,832	-
American Alliance	88,101	8,917	265	422	-1,782	-	3,261	9,192	6,444	-	-	-
American Automobile	-	-	-	-	-	-	26,809	-	3,657	-	-	-
American Aviation	45,795	3,065	-	973	727	-	23,082	-	6,535	3,750	-	-
American Central	179,242	12,739	351	-	-	-	13,859	-	510	446	-	-25
American Eagle	36,214	495	-	-	-	-	-	-	-	-	7,823	-
American Drugists	371,373	25,909	-574	692	1,072	-	47,546	7,979	5,788	-	-	-
American Eagle	385,552	28,416	350	1,880	83	230	22,368	4,371	33,772	194	-	-
American Exchange	82,206	8,342	227	750	5	-	435	159	471	664	-	-
American and Foreign	35,671	2,139	177	196	-	-	1,679	-	2,008	-	-	-
American National	74,209	6,494	63	292	34	-	78	2,057	1,093	772	-	-
American Reserve	81,530	8,496	26	369	1	-	-	-	-	-	-	-
Anchor	139,903	13,290	12	101	10	-	37,477	5,574	76,600	7	-	-
Automobile	398,311	43,570	1,080	2195	1,090	-	250,149	177,255	439,447	8,021	144	-
Baltimore American	351,996	29,409	84	47	-84	-	34,534	177,255	19,727	-	4,472	-34
Bankers and Shippers	58,954	6,339	180	361	29	-	35,664	36	2,425	-	-	-
Birmingham (Pa.)	3,757	-	-	-	-	-	-	-	-	-	-	-
Buffalo	94,186	9,944	15	148	-	-	17,206	34	4,132	-	-	-
Caladonian-American	92,344	8,035	-	104	20	-	13,959	-	1,186	58	-	-
California	26,034	1,968	3	131	-	-	10,509	-	2,720	287	-	10
Camden	155,091	14,319	263	734	821	-	7,323	51	1,487	22	-	-
Capital (Cal.)	82,182	4,439	9	19	-	-	14,207	-	2,163	-	-	-
Capital (N. H.)	12,585	1,393	-	-	-	-	1,752	-	-	-	-	-

Carolina	87,412	5,186	107	3,466	4	-	-	1,183	-	4,080	-	98
Centennial	114,251	1,707	54	305	73	-	-	-1,095	1,218	2,814	-	-
Central States	-	-	-	-	-	-	-	-	-	-	-	-
Central Union	-	2,483	3	6	40	1	-	-	-	-	5	-
Charter Oak	-	6,329	46	1,116	318	13	-	6,047	-	2,540	-	-
Church Properties	-	104	6	-	-	-	-	-	-	-	-	-
Citizens (N. J.)	2,820	9,793	848	1,679	1,143	449	-	20,565	2,075	17,181	-	-
City of New York	121,576	11,112	68	1,799	231	4,456	-	1,718	-	2,514	500	-
Columbia (N. Y.)	88,023	6,302	-19	1,100	34	-	-	18,057	-	800	-	-
Columbia (Ohio)	125,608	13,752	17	1,670	226	18	-	21,991	-	12,055	-	-
Commerce	101,332	5,787	175	630	451	-	-	15,218	-	3,087	-	-
Commerce	46,609	3,409	215	9,463	339	-	-	2,415	-	1,068	-	-
Commercial Union (N. Y.)	95,340	9,587	67	747	241	-4	-	10,574	1,288	13,915	-	730
Commonwealth	79,845	8,110	39	833	-	26	-	15,002	-	3,807	-	-
Concordia	149,519	14,904	549	2,151	-291	1,063	-	30,931	20,141	65,195	-	-
Connecticut	635,026	53,662	9,333	8,731	1,031	914	-	90,794	43,480	38,684	62,239	21
Continental	58,904	2,891	-21	601	186	911	-	8,104	-	1,465	149	-
County	55,166	4,060	-13	91	153	-	-	18,436	-	2,765	-	-
Deaotit Fire and Marine	218,821	22,471	376	2,332	2,211	656	-	2,922	-	712	-	-
Dubuque Fire and Marine*	29,172	3,003	8	406	103	-	-	3,400	-	3,592	-	-
Duque (N. Y.)	35,763	2,521	56	607	255	-	-	2,599	-	803	-	-
East and West	43,891	3,804	6	196	14	1,383	-	7,702	-	576	-	-
Empire State	101,305	8,276	-9	543	453	906	-	12,271	45	1,693	-	-
Equitable Fire and Marine	145,835	14,625	977	2,453	1,037	123	-	31,324	-	38,441	41	-
Excelsior	55,323	4,312	-16	-166	24	56	-	247	-	47	-	-
Export	-	-	-	-	-	-	-	-	-	1,711	-	-
Farmers (Pa.)	43,453	2,932	33	345	160	196	-	-	-	-	-	-
Federal	38,295	2,119	295	62	579	106	-	99,223	87,090	57,091	285	15,769
Federal Union	87,829	6,525	-8	1,224	122	108	-	11,166	132	2,018	77	-
Fidelity and Guaranty	167,464	21,422	130	1,300	733	104	-	37,104	-	8,825	359	-
Fidelity Phenix	416,258	31,372	1,027	5,725	456	638	-	181,633	68,237	60,250	-	7,418
Fire Association	193,685	17,239	978	2,044	540	195	-	11,423	7,959	27,034	9	626
Fireman's Fund	712,376	62,809	598	5,300	4,375	245	-	288,187	72,726	153,334	39	6,682
Firemen's (D. C.)	117	-23	-	-	-	-	-	-	-	-	-	-
Firemen's (N. J.)	81,060	11,007	280	-1,572	-55	135	-	24,549	-6,160	-557	772	26
First National	14,458	2,316	-	8	8	-	-	-376	-	-	-	-
Franklin Fire	152,198	13,819	484	4,117	136	23	-	4,824	391	4,080	-	-
Franklin National	51,527	7,070	7	217	517	-	-	7,463	-	6,746	-	-
Fulton	-	-	-	-	-	-	-	-	-	-	-	-
General Exchange	-	-	-	-	-	-	-	297,581	-	-	-	-
General Insurance	372,973	16,823	-3	775	198	26	-	24,326	45,647	26,246	-	-
Gibraltar Fire and Marine	47,319	3,900	16	788	12	12	-	844	-	980	-	-
Gird Fire and Marine	108,646	9,822	32	367	-	12	-	11,201	-	3,516	-	-
Glen Falls	230,985	18,946	104	1,350	346	321	-	38,612	-3,558	30,739	46	-
Globe and Republic	78,293	8,604	-29	293	227	-	-	4,271	-	6,929	-	-
Globe and Rutgers	161,148	10,793	275	1,506	297	32	-	11,892	45,394	6,251	-	-
Granite State	132,335	13,732	361	1,906	389	486	-	12,174	-	6,118	-	-
Great American	353,654	22,991	546	3,136	1,772	-40	-	33,320	27,009	34,424	26,665	359

\* 6 months only.

TABLE 9.—*Massachusetts Business—Net Premiums written during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>Stock Companies of Other States—</i>													
<i>Concluded</i>													
Hanover	\$294,753	\$28,495	\$506	\$2,276	\$788	\$688	—	\$106,517	\$2,677	\$24,725	\$2,400	\$848	—
Hartford	747,989	75,766	6,023	7,768	7,251	1,760	\$16,227	131,448	52,526	83,043	2,002	—	\$1,046
Home Fire and Marine	1,061,229	100,194	3,106	42,372	4,986	1,751	—234	126,916	86,788	132,451	1,963	7,474	—
Homeland	312,394	29,814	—160	4,670	1,347	5	—	128,075	39,701	42,175	—	11,059	—
Homestead	33,429	688	14	—130	33	—45	—	10,273	859	10,459	—	487	448
Imperial Assurance	68,355	7,136	240	2,794	20	763	—	373	—	3,059	—	—	—
Insurance Co. of North America	59,637	4,578	—178	788	—124	8	—	11,362	—	1,667	—	—	—
Insurance Co. of the State of Pa.	574,829	61,409	2,029	14,242	15,763	9,600	2,755	129,364	982,142	659,672	5,155	168,210	2,755
Inter-Ocean	98,149	7,791	2	372	200	—	—	37,463	—	3,076	—	—	—
Jersey	42,477	3,515	22	112	38	—	—	3	1,750	982	—	—	—
Lumbermens (Pa.)	54,980	5,294	9	769	222	—49	—	55,512	18	1,424	—	—	—
Manhattan Fire and Marine	89,623	9,165	124	1,071	108	761	—	31,023	569	7,692	—	—	—
Mechanics and Traders	41,077	2,801	52	143	9	—	—	6,136	—	15,015	—	—	—
Mechanics	56,190	7,203	54	544	—23	—	—	13,231	—	14,513	—	—	—
Merchants	12,090	223	223	1,422	186	36	—	5,611	1,288	2,643	36	730	1,286
Merchants (N. Y.)	146,538	9,492	50	217	88	7	—	2,985	4,327	10,583	—	732	—
Merchants and Manufacturers	72,293	8,199	14	501	—112	—	—	2,740	—	1,100	—	—	—
Merchants (Colo.)	11,114	1,187	3	50	—	34	—	1,687	—	—	—	—	—
Mercury	114,434	9,514	56	861	1,067	—47	—	4,625	—	5,367	—	—	—
Michigan Fire and Marine	116,050	10,291	353	2,122	1,264	409	515	18,386	112	12,815	663	52	87
Milwaukee Mechanics	331,404	32,516	302	2,231	131	12	—	47,949	—	12,989	—	—	—
Minneapolis Fire and Marine	698,757	60,433	1,806	9,385	5,628	180	—	137,537	2,200	107,209	241	3	—
National Fire	18,825	11,137	11	585	6	—	—	20,286	—	8,622	—	—	—
National Ben Franklin	37,637	—	—	—	—	—	—	17,665	—	38	—	—	—
National Grange	42,317	42,317	—47	24,094	117	93	—	5,809	1,847	23,731	—	7	—
National Liberty	485,271	25,411	905	2,457	3,891	337	—	19,839	224	15,083	76	—	—
National Union	353,329	9,061	269	1,608	551	234	—	16,019	115	1,866	970	2	—
Newark	119,338	4,199	136	631	29	—	—	900	—	3,058	—	—	—
New Brunswick	338,045	33,599	1,052	1,907	3,080	460	—	61,205	30,086	26,273	14	—	—
New Hampshire	102,603	8,964	111	772	21	—	—	10,534	—	6,504	—	—	—
New York Fire	219,893	346	346	3,295	575	166	—	303,374	4,690	32,999	—	—	—
New York Underwriters	495,242	19,195	384	6,638	1,320	1,193	—	203,721	—	40,958	—	2,253	—
Niagara	496,242	45,358	585	6,363	—	—	—	123	—	149	74	—	—
North American Fire and Marine	3,953	328	12	56	51	11	—	133	—	—	—	—	—
Northern (N. Y.)	140,849	14,856	93	199	110	79	—	30,691	—	4,025	—	—	—
North River	151,231	14,027	28	1,190	38	756	—	29,520	192,332	147,498	5	15,228	46
Northwestern Fire and Marine	47,054	4,404	46	673	27	—	10,462	3,037	1,170	6,277	—	556	—
Northwestern National	44,076	31	31	74	49	—	—	7,478	2,592	1,348	—	—	—
Ohio Farmers	85,784	9,592	27	135	139	5	—	11,151	—	134	—	—	—





TABLE 9.—*Massachusetts Business—Net Premiums written during 1946—Concluded*

COMPANIES	Fire	Extended Coverage	Hail (except growing crops)	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>United States Branches, Companies of Other Countries</i>														
Alliance Assurance	\$91,180	—	—	—	\$210	\$43	—	—	\$1,705	\$173	\$129	\$—10	\$1,946	—
Atlas Assurance	—	\$9,259	—	—	—	—	\$67	—	269	3,434	—58	—	—	—
British America	12,087	653	20	276	276	—	5	—	—	—	155	—	—	—
British and Foreign Marine	5,599	329	140	784	—	—	—	—	972	6,398	1,042	—	—	—
British General	40	—	—	66	—	11	—	—	148	—	16	—	—	—
Caledonian	102,207	8,158	175	—901	—	122	964	—	19,531	43	—184	22	—	—
Century	28,073	663	19	331	—	212	35	—	326	6,403	693	773	—	—
Commercial Union Assurance	92,640	5,661	12	1,568	—	398	80	—	7,077	16,269	21,508	—	106	—
Eagle Star	—	—	—	—	—	—	—	—	—	46,265	5,110	—	—	—
Indemnity Marine	—	—	—	—	—	—	—	—	—	594	—35	—	27	—
Law Union and Rock	14,122	1,349	3	—	—	—67	—	—	3,683	—	—	—	—	—
Liverpool and London and Globe	398,851	36,575	1,378	8,391	—	5,041	650	—	34,846	3,209	20,378	5,796	98	—
London Assurance	99,628	9,391	163	1,690	—	564	539	—	7,005	39,111	13,603	—	1,230	—
London and Lancashire	183,987	17,010	877	1,831	—	1,088	303	—	50,812	—	1,793	—	—	\$108
London and Scottish	9,148	781	—	39	—	—	—	—	46	—	172	—	—	—
Marine	—	—	—	—	—	—	—	—	98,617	50,072	41,387	—	3,400	—
Netherlands	100,780	9,706	—82	2,959	—	184	—6	—	12,657	16	675	1	—	—
North British and Mercantile	310,572	26,080	1,025	3,649	—	1,125	741	—	27,872	3,864	61,404	11,235	2,189	2,724
Northern Assurance	124,886	12,627	—	1,168	—	187	350	—	4,905	15,083	30,369	403	1,641	—
Norwich Union	131,092	10,969	70	977	—	1,510	18	—	3,342	2,251	4,092	6	—	—
Pacific Marine	—	—	—	—	—	—	—	—	—	3,884	55	—	2,189	—
Pacific Coast	—164	—	—	—	—	—	—	—	—	—	960	—	—	—
Palatine	79,398	5,418	—	172	—	482	172	—	106	—	1,456	—	—	—
Phoenix Assurance	228,955	23,271	567	3,635	—	400	216	—	23,530	—	11,176	—	—	—
Royal	437,250	40,687	1,685	7,743	—	3,149	9,851	—	103,869	33,783	6,692	20,967	—	—
Royal Exchange	162,340	14,203	332	1,479	—	1,891	511	—	17,298	5,727	2,569	—8	814	—
Scottish Union and National	287,854	25,727	61	1,587	—	1,284	450	—	111,885	17,265	7,265	23	795	—
Sea	29,653	2,293	—9	108	—	257	402	—	129,190	17,993	106,460	87	2,376	—
Standard Marine	—	—	—	—	—	—	—	—	51	14,469	6,403	—	—	—
State Assurance	3,287	45	—	94	—	—24	—	—	—	—	—	—	—	—
Sun	161,188	14,575	159	1,368	—	1,763	373	—	13,713	42,942	28,418	782	7,993	—
"Switzerland" General	7,174	609	—	173	—	199	65	—	—	3,364	391	—	—	—
Thames and Mersey	—	—	—	—	—	—	—	—	—	11,503	236	—	—	—
Union Assurance	32,385	3,344	132	—23	—	184	19	—	5,673	—	221	—	—	—
Union of Canton	15,273	1,171	—6	158	—	8	2	—	8	5,049	5,217	—	—	—
Union Marine	84,888	6,834	47	549	—	77	90	—	3,336	2,251	3,186	—	—	—
Western Assurance	36,991	1,715	13	54	—	77	1,036	—	1,448	3,527	—168	—	224	—
Yorkshire	140,691	9,537	34	1,024	—	210	7	—	51,456	—	36	—	—	—
Totals	\$3,413,214	\$298,650	\$7,107	\$41,080	\$19,530	\$16,980	—	—	\$737,376	\$337,637	\$383,374	\$40,077	\$25,028	\$2,832

[illegible]



TABLE 10.—*Massachusetts Business—Net Losses paid during 1946*

COMPANIES	Fire	Extended Coverage	Tornado, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>Massachusetts Mutual Companies</i>													
<i>Other than Manufacturers</i>													
Abington	\$63,477	\$10,912	\$309	\$2	—	—	—	\$9,677	—	—	—	—	—
Allied American	26,923	6,841	—	196	\$85	—	—	70,391	—	—	\$10,916	—	—
Associated Merchants	17,665	1,648	—	112	—	—	—	2,480	—	—	240	—	—
Attleboro	22,038	2,112	—	—	—	—	—	2,095	—	—	—	—	—
Barnstable County	32,766	7,532	—	—	—	—	—	—	—	—	—	—	—
Berkshire	97,756	16,509	209	94	—	\$9	—	5,550	—	629	—	—	—
Cambridge	75,486	17,192	796	3	—	—	—	23,973	—	—	—	—	—
Dorchester	23,484	23,484	271	—	—	—	—	9,561	—	—	—	—	—
Federal	121,186	22,953	191	482	—	—	—	65,643	—	6,080	2,217	—	\$-4,181
Fitchburg	59,238	8,527	184	2	—	—	—	14,645	—	—	—	—	—
Groveland	3,876	—	—	—	—	—	—	—	—	—	—	—	—
Hingham	111,986	31,783	71	3	—	—	—	—	—	—	—	—	—
Holyoke	106,176	26,519	581	92	—	—	—	42,407	—	—	—	—	—
Lowell	46,066	9,227	77	102	—	—	—	14,869	—	—	—	—	—
Lumber	18,670	7,654	—348	166	2	—	—	3,774	—	718	—	—	—
Lynn	36,267	6,906	27	7	—	—	—	13,252	—	—	—	—	—
Merchants and Farmers	44,532	13,048	219	86	—	—	—	8,580	—	—	—	—	—
Merimack	127,228	27,450	287	16	6	23	—	20,844	—	14	—	—	—2,009
Middlesex	145,069	27,628	106	27	—	—	—	50,359	—	—	—	—	—
Mutual Fire Assurance	1,959	1,677	—	—	—	—	—	—	—	—	—	—	—
Newburyport	—	—	—	—	—	—	—	—	—	—	—	—	—
Norfolk and Dedham	129,238	31,102	121	5	—	—	—	15,269	—	—	1,080	—	—
Pioneer	11,709	1,925	—	—	—	—	—	18,239	—	207	—	—	17,808
Quincy	267,548	76,923	727	9	—	—	—	47,121	—	—	—	—	—
Salem	44,073	6,119	3	1	—	—	—	3,967	—	—	—	—	—
Traders and Mechanics	72,864	8,404	—	2,500	—	—	—	3,660	—	—	—	—	—
United Mutual	231,162	86,544	1,043	2,056	11	—	—	199,734	—	41,239	1,193	—	—
West Newbury	2,215	—	—	—	—	—	—	—	—	—	—	—	—
Worcester Mutual	163,164	26,146	269	5	—	—	—	33,171	—	—	—	—	—
Totals	\$2,193,714	\$504,963	\$5,746	\$5,966	\$104	\$52	—	\$721,261	—	\$49,498	\$15,406	—	\$11,618
<i>Mutual Companies of Other States</i>													
<i>Other than Manufacturers</i>													
Atlantic	—	\$2,124	—	\$93	—	—	—	\$6,000	\$-34,488	\$32,075	—	\$29,096	—
Automobile	—	—	—	—	—	—	—	45,329	—	—	—	—	—
Central Manufacturers	79,986	25,277	\$805	72	\$2	—	—	9,313	—	10,460	—	—	—
Employers	4,953	2,967	—	8	—	—	—	1,440	—	65	—	—	—
Grain Dealers	27,624	3,092	3	72	2	—	—	95	—	5,397	—	—	—

	Assets	Liabilities	Capital	Surplus	Total
<b>Hardware Dealers</b>	77,732	11,856	—	125	774
Hardware Mutual	3,015	823	—	116	360
Indiana Lumbermen's	26,262	1,969	160	116	645
Lumbermen's	12,941	1,331	427	122	689
<b>Manufacturers and Merchants</b>	19,962	4,155	—	—	—
Manufacturers	1,251	1,251	322	—	614
Merchants and Business Men's	38,204	3,886	62	317	354
Michigan Millers	14,879	1,562	188	74	156
Millers Mutual (Ill.)	6,549	882	5	364	222
Millers Mutual (Pa.)	8,503	1,030	194	55	229
Millers Mutual (Texas)	62,795	8,061	65	375	2,140
Millers National	41,962	3,823	—	71	59
Mill Owners Mutual (Iowa)	8,823	1,656	—	—	—
Mutual of Saco	80,684	11,850	—	—	437
Mutual Implement	35,054	11,484	99	88	1,094
National Retailers	41,211	6,101	138	678	1,497
Northwestern Mutual	54,225	12,487	5,024	—	18,907
Pawtucket	19,701	2,340	4	183	636
Pennsylvania Lumbermen's	17,544	2,837	167	76	329
Pennsylvania Millers	15,970	3,324	—	—	2,135
Phoenix	40,280	—	—	—	—
Providence Mutual	70,705	12,260	33	49	743
Union Mutual	18,008	5,281	—	—	—
Utica (Mutual)	12,437	3,302	—	—	—
Vermont	—	—	—	—	—
<b>Totals</b>	<b>\$930,754</b>	<b>\$144,701</b>	<b>\$7,696</b>	<b>\$2,610</b>	<b>\$58,021</b>
<b>Massachusetts Manufacturers' Mutuals</b>					
Arkwright	\$49,109	—	—	—	—
Boston Manufacturers	150,035	—	—	—	—
Cotton and Woolen	62,692	—	—	—	—
<b>Totals</b>	<b>\$261,836</b>	—	—	—	—
<b>Manufacturers' Mutuals of Other States</b>					
Blackstone	\$76,440	—	—	—	—
Firemen's	83,535	—	—	—	—
Manufacturers' Mutual	262,398	—	—	—	—
Philadelphia Manufacturers	32,881	—	—	—	—
Protection Mutual	10,130	—	—	—	—
What Cheer	28,638	—	—	—	—
<b>Totals</b>	<b>\$494,022</b>	—	—	—	—

	Assets	Liabilities	Capital	Surplus	Total
<b>Hardware Dealers</b>	77,732	11,856	—	125	774
Hardware Mutual	3,015	823	—	116	360
Indiana Lumbermen's	26,262	1,969	160	116	645
Lumbermen's	12,941	1,331	427	122	689
<b>Manufacturers and Merchants</b>	19,962	4,155	—	—	—
Manufacturers	1,251	1,251	322	—	614
Merchants and Business Men's	38,204	3,886	62	317	354
Michigan Millers	14,879	1,562	188	74	156
Millers Mutual (Ill.)	6,549	882	5	364	222
Millers Mutual (Pa.)	8,503	1,030	194	55	229
Millers Mutual (Texas)	62,795	8,061	65	375	2,140
Millers National	41,962	3,823	—	71	59
Mill Owners Mutual (Iowa)	8,823	1,656	—	—	—
Mutual of Saco	80,684	11,850	—	—	437
Mutual Implement	35,054	11,484	99	88	1,094
National Retailers	41,211	6,101	138	678	1,497
Northwestern Mutual	54,225	12,487	5,024	—	18,907
Pawtucket	19,701	2,340	4	183	636
Pennsylvania Lumbermen's	17,544	2,837	167	76	329
Pennsylvania Millers	15,970	3,324	—	—	2,135
Phoenix	40,280	—	—	—	—
Providence Mutual	70,705	12,260	33	49	743
Union Mutual	18,008	5,281	—	—	—
Utica (Mutual)	12,437	3,302	—	—	—
Vermont	—	—	—	—	—
<b>Totals</b>	<b>\$930,754</b>	<b>\$144,701</b>	<b>\$7,696</b>	<b>\$2,610</b>	<b>\$58,021</b>
<b>Massachusetts Manufacturers' Mutuals</b>					
Arkwright	\$49,109	—	—	—	—
Boston Manufacturers	150,035	—	—	—	—
Cotton and Woolen	62,692	—	—	—	—
<b>Totals</b>	<b>\$261,836</b>	—	—	—	—
<b>Manufacturers' Mutuals of Other States</b>					
Blackstone	\$76,440	—	—	—	—
Firemen's	83,535	—	—	—	—
Manufacturers' Mutual	262,398	—	—	—	—
Philadelphia Manufacturers	32,881	—	—	—	—
Protection Mutual	10,130	—	—	—	—
What Cheer	28,638	—	—	—	—
<b>Totals</b>	<b>\$494,022</b>	—	—	—	—

TABLE 10.—*Massachusetts Business—Net Losses paid during 1946—Continued*

COMPANIES														
	Fire	Extended Coverage	Tornado, Windstorm, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earth-quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other	
<i>Massachusetts Stock Companies</i>														
Boston . . . . .	\$472,118	\$80,439	\$2,723	\$1,761	\$227	—	—	\$85,192	\$235,957	\$47,625	—	\$573	\$13	
Employers . . . . .	149,324	36,166	483	362	132	—	—	126,212	—	23,720	\$425	—	—	
Mass. Fire and Marine . . . . .	62,530	8,165	4	—	—	—	—	9,588	—	852	1,646	—	—	
New England . . . . .	12,711	1,753	107	228	14	—	\$156	1,780	2	692	—	—	16	
Old Colony . . . . .	95,606	18,868	507	445	63	—	—	26,277	138,949	10,392	—	—	13	
Sentinel . . . . .	12,711	1,753	107	228	14	—	156	1,780	2	692	—	—	16	
Springfield Fire and Marine . . . . .	432,159	59,582	3,645	7,756	487	—	5,292	60,514	74	23,519	7	—	552	
Totals . . . . .	\$1,237,159	\$206,726	\$7,576	\$10,780	\$937	—	\$5,604	\$311,343	\$374,984	\$107,492	\$2,078	\$573	\$610	
<i>Stock Companies of Other States</i>														
Aetna . . . . .	\$335,927	\$65,854	\$1,469	\$3,899	\$674	—	—	\$61,568	\$95,541	\$92,802	\$2,799	—	\$200	
Agricultural . . . . .	17,743	339	—	266	—	—	—	30,812	26,981	56,115	—	\$122	—	
Albany . . . . .	37,661	3,933	233	—	—	—	—	7,465	—	—	—	—	—	
Allennania . . . . .	22,873	2,982	—	320	—	—	—	1,236	—	—	—	—	—	
Alliance (Pa.) . . . . .	59,019	5,810	68	2,077	2	—	\$512	15,572	—	10,390	—	—	2,120	
Allied Fire (Utica) . . . . .	3,976	780	—	—	—	—	—	251	—	—	—	—	—	
American (N. J.) . . . . .	213,482	31,008	1,002	214	26	—	—	11,250	13,614	4,807	97	77	—	
American Alliance . . . . .	25,103	1,560	—	3,314	—	—	—	568	8,431	3,007	—	—	—	
American Automobile . . . . .	—	—	—	—	—	—	—	15,188	—	16	618	—	—	
American Aviation . . . . .	2,095	387	—	16	—	—	—	2,838	—	—	—	—	—	
American Central . . . . .	119,335	8,480	—	—	—	—	—	5,135	—	48	—	—	—	
American Druggists . . . . .	19,337	1,63	—	—	—	—	—	—	—	—	—	—	—	
American Eagle . . . . .	159,783	17,110	273	8,326	—	—	—	51,717	7,261	3,950	52	41	—	
American Equitable . . . . .	116,486	15,951	1,783	810	364	—	30	12,152	713	11,701	14	—	—	
American and Foreign . . . . .	29,960	4,732	284	816	—	—	5,975	—	52	142	—	—	—	
American National . . . . .	8,127	2,188	—	—	—	—	—	1,038	—	208	—	—	—	
American Reserve . . . . .	36,509	754	2,721	245	29	—	—	303	360	108	423	—	—	
American Union . . . . .	20,395	2,927	16	—	—	—	—	—	—	—	—	—	—	
Anchor . . . . .	74,213	6,113	62	458	9	—	—	12,611	4,656	23,732	—	—	—	
Automobile . . . . .	20,331	1,168	496	—	608	—	—	89,836	30,240	95,625	7,727	—	—	
Baltimore American . . . . .	136,763	23,726	858	1,708	—	—	—	19,325	5	5,594	—	—	—	
Bankers and Shippers . . . . .	172,562	—	—	—	—	—	—	14,655	—	759	—	—	—	
Birmingham (Pa.) . . . . .	52,909	3,635	556	—	—	—	—	—	—	—	—	—	—	
Buffalo . . . . .	6,104	—	—	—	—	—	—	—	—	—	—	—	—	
Caledonian-American . . . . .	56,863	7,344	309	34	—	—	—	9,596	5	308	—	—	—	
California . . . . .	51,084	5,138	—	—	—	—	—	4,588	—	99	—	—	—	
Canada . . . . .	17,472	1,780	5	—	—	—	—	3,129	—	290	—	—	—	
Capital . . . . .	52,823	4,423	492	165	—	—	—	2,543	8	31,879	—	—	—	
Capital (Cal.) . . . . .	24,322	3,391	1	428	51	—	—	4,592	224	93	—	—	—	
Capital (N. H.) . . . . .	4,877	1,005	—	—	—	—	—	534	—	—	—	—	—	



Carolina	58,315	11,024	57	1,477	-	-	-	-	50	-	300	-	1,236	-
Central	2,532	1	-	-	-	-	-	-	1,784	-	-	-	571	-
Central States	7,785	674	17	-	-	-	-	-	-	-	-	-	-	-
Central Union	25,647	1,460	73	-	-	-	-	-	2,175	-	-	-	1,457	-
Church Properties	743	27	-	-	-	-	-	-	-	-	-	-	-	-
Citizens (N. J.)	27,831	10,307	1,207	605	-	-	-	-	15,930	-	1,410	-	4,276	-
City of New York	49,179	5,360	292	2,581	-	-	-	-	961	-	-	-	130	175
Columbia (N. Y.)	59,130	7,452	22	313	-	-	-	-	11,862	-	-	-	14	-
Columbia (Ohio)	73,940	7,387	187	13	-	-	-	-	13,057	-	-	-	7,102	-
Commerce	24,512	3,480	179	-1	16	-	-	-	3,741	-	-	-	804	-
Commercial Union (N. Y.)	10,174	1,999	33	1,218	2	-	-	-	1,654	-	796	-	20	-
Commonwealth	33,516	5,887	-	-	-	-	-	-	5,495	-	-	-	7,180	-
Concordia	17,084	3,574	44	436	-	-	-	-	8,174	-	-	-	1,258	-
Connecticut	60,211	8,570	670	181	-	-	-	-	10,556	-	20,099	-	21,723	-
Continental	243,327	48,110	32,210	2,981	-	-	-	-	59,502	-	16,337	-	10,582	93
County	43,900	2,154	-	-	-	-	-	-	2,852	-	-	-	32	-
Detroit Fire and Marine	19,926	1,311	-	-	18	-	-	-	6,402	-	-	-	682	-
Dixie	26,909	1,386	-	4	-	-	-	-	1,108	-	-	-	-	-
Dubuque Fire and Marine	11,948	454	30	-	-	-	-	-	13,429	-	-	-	-	-
Eagle (N. Y.)	11,923	851	61	-	-	-	-	-	1,144	-	-	-	256	-
East and West	23,809	3,128	263	-	-	-	-	-	3,542	-	-	-	15	-
Empire State	41,028	3,742	120	-23	-	-	-	-	4,588	-	-	-	53	-
Equitable Fire and Marine	30,706	2,549	263	138	-	-	-	-	18,391	-	-	-	17,563	-
Excelsior	18,776	4,716	-	81	-	-	-	-	-	-	-	-	-	-
Export	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Farmers (Pa.)	45,262	2,140	8	285	49	-	-	-	-	-	-	-	-	-
Federal	7,670	1,757	-	-	-	-	-	-	57,497	-	26,716	-	8,729	-
Federal Union	38,559	11,082	135	1,379	-	-	-	-	7,589	-	5	-	34	-
Fidelity and Guaranty	98,043	20,742	161	106	10	-	-	-	14,307	-	-	-	3,082	-
Fidelity Phenix	166,163	946	696	1,549	-	-	-	-	101,899	-	16,337	-	18,039	93
Fire Association	103,005	13,233	693	1,608	-1	-	-	-	7,746	-	5,690	-	15,569	-
Fireman's Fund	290,488	44,716	1,338	5,187	114	-	-	-	134,565	-	19,884	-	8,733	-
Firemens (D. C.)	117	-	-	-	-	-	-	-	-	-	-	-	-	-
Firemens (N. J.)	69,100	5,752	728	-336	-	-	-	-	7,480	-	13,615	-	4,532	97
First National	11,406	-16	-	-	-	-	-	-	-	-	-	-	-	77
Franklin Fire	80,782	9,062	183	893	-	-	-	-	3,704	-	-	-	21,516	-
Franklin National	12,693	2,288	-	530	-	-	-	-	3,436	-	-	-	-606	-
Fulton	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General Exchange	220,670	19,651	39	-	-	-	-	-	79,751	-	-	-	-	-
General Insurance	19,553	2,872	25	584	-	-	-	-	25,281	-	2,062	-	3,629	-
Gibraltar Fire and Marine	42,970	5,026	710	64	-	-	-	-	2,891	-	-	-	-	-
Grand Fire and Marine	107,902	13,591	655	813	41	-	-	-	4,414	-	16,337	-	745	-
Gleas Falls	61,978	4,122	45	-	-	-	-	-	10,321	-	-	-	7,918	93
Globe and Republic	136,900	17,055	433	171	40	-	-	-	3,158	-	4,986	-	10	-
Globe and Rutgers	73,473	10,735	244	81	34	-	-	-	10,286	-	-	-	3,435	-
Granite State	197,190	19,593	1,025	188	73	-	-	-	7,193	-	-	-	127	-
Great American	231,250	20,891	304	456	5	-	-	-	14,574	-	21,680	-	8,562	-
Hanover	262,091	45,817	3,613	2,155	1,489	-	-	-	40,049	-	7,261	-	7,233	41
Hartford	-	-	-	-	-	-	-	-	44,205	-	34,187	-	17,013	16

TABLE 10.—*Massachusetts Business—Net Losses paid during 1946—Continued*

COMPANIES	Fire	Extended Coverage	Tornado, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earthquake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>Stock Companies of Other States—Continued</i>													
Home Fire and Marine . . .	\$442,120	\$86,091	\$22,145	\$28,561	\$2,200	—	\$4,165	\$123,001	\$43,927	\$51,470	\$177	\$12,432	—
Home Fire and Marine . . .	145,418	17,696	310	2,674	—	—	—	39,431	25,871	6,764	—	—	—
Homestead . . .	24,337	1,190	36	—	—	—	—	40	538	1,701	—	—	—
Homestead . . .	25,234	2,763	—	483	—	—	—	6,296	—	1,124	—	—	—
Imperial Assurance . . .	32,953	2,349	65	185	—	—	—	55,123	—	860	—	—	—
Insurance Co. of No. America . . .	183,260	26,319	2,823	1,871	984	—	—	20,858	351,225	391,210	706	—7,384	\$725
Insurance Co. of the State of Pa. . .	45,069	7,376	58	570	—	—	—	—	—	461	—	—	—
Inter-Ocean . . .	14,640	2,571	4	187	—	—	—	—	135	4	—	—	—
Jersey . . .	14,934	4,922	126	459	—	—	—	—	—	294	—	—	—
Lumbermens (Pa.) . . .	39,721	2,228	—	622	—	—	—	32,090	2	334	—	—	—
Manhattan Fire and Marine . . .	8,880	1,397	70	28	—	—	—	11,100	87	2,390	—	—	—
Mechanics and Traders . . .	21,701	4,123	2	—	2	—	—	3,323	—	1,532	—	—	—
Mercantile . . .	66,554	10,864	242	1,746	—	—	—	13,254	796	2,092	—	—	969
Merchants (N. Y.) . . .	47,653	4,361	167	52	—	—	—	2,129	6,433	2,662	—	143	—
Merchants and Manufacturers . . .	44,067	5,974	—	922	—	—	—	2,139	—	45	—	—	—
Merchants (Colo.) . . .	5,077	768	—	—	—	—	—	1,002	—	—	—	—	—
Mercury . . .	51,188	5,767	2,030	246	2	—	—	2,168	—	884	—	—	—
Michigan Fire and Marine . . .	7,010	429	912	57	57	—	623	7,120	9	2,767	1	—	—
Milwaukee Mechanics . . .	163,644	20,703	149	50	—	—	—	24,333	—	5,275	—	—	65
Minneapolis Fire and Marine . . .	—	—	—	—	—	—	—	—	—	—	—	—	—
National Fire . . .	294,568	46,446	2,174	4,054	842	—	—	55,844	139	36,658	—	—	—
National Ben Franklin . . .	60,652	12,761	—	—	—	—	—	10,067	—	614	—	—	—
National Grange . . .	19,429	—	—	—	—	—	—	1,718	—	—	—	—	—
National Liberty . . .	22,908	22,908	269	7,015	—	—	—	4,080	569	8,872	—	—	—
National Union . . .	222,830	26,019	1,479	156	87	—	—	18,751	—	16,096	—	—	—
Newark . . .	96,337	2,880	225	270	10	—	—	12,000	14	—	1,667	—	—
New Brunswick . . .	2,896	42	144	209	—	—	—	25,946	13,842	433	—	—	—
New Hampshire . . .	165,380	26,096	2,309	691	311	—	—	13,063	9,498	9,498	—	—	—
New York Fire . . .	25,151	3,225	30	—	—	—	—	127,323	4,706	1,964	—	—	—
New York Underwriters . . .	71,209	8,362	163	257	335	—	—	35,206	—	16,630	—	—	—
Niagara . . .	262,031	35,263	545	1,214	—	—	—	34	—	56	16	—	—
North American Fire and Marine . . .	1,224	126	49	24	3	—	—	18,620	—	212	—	—	—
Northern (N. Y.) . . .	81,634	15,111	39	232	—	—	—	11,987	98,873	87,198	—	4,216	—
North River . . .	47,049	5,261	203	1,699	75	—	—	11,987	1,180	831	—	—	—
Northwestern Fire and Marine . . .	11,805	1,823	22	86	—	—	10,894	989	—	—	—	—	—
Northwestern National . . .	14,601	1,976	8	8	26	—	—	2,434	194	—	—	—	—
Ohio Farmers . . .	31,592	5,218	78	155	3	—	—	3,641	—	—	—	—	—





TABLE 10.—*Massachusetts Business—Net Losses paid during 1916—Concluded*

COMPANIES	Fire	Extended Coverage	Tornado, Cyclone, Hail (except growing crops)	Sprinkler Leakage	Riot, Civil Commotion and Explosion	Earth-quake	Hail (growing crops only)	Motor Vehicles	Ocean Marine	Inland Navigation and Transportation	Aircraft	Ocean Marine (War Risk Only)	All Other
<i>United States Branches,</i>													
<i>Companies of Other Countries—</i>													
Alliance Assurance	—	—	—	—	—	—	—	—	\$22	\$18	—	—	—
Atlas Assurance	\$44,050	\$9,279	\$57	\$408	\$3	—	—	\$641	2,218	118	—	—	—
British America	8,462	278	59	—	—	—	—	—	—	—	—	—	—
British and Foreign Marine	1,217	230	—	357	—	—	—	—	2,747	9	—	—	—
British General	449	44	—	—	—	—	—	20	—	—	—	—	—
Caledonian	66,452	11,885	796	220	—	—	—	10,280	—33	—176	—	—	—
Century	13,033	1,408	58	77	39	—	—	—	7,343	—	\$423	—	—
Commercial Union Assurance	50,438	5,422	126	—17	—16	—	—	4,630	14,782	4,461	—	—	—
Eagle Star	1,222	—	—	—	—	—	—	—352	35,526	483	—	—	—
Indemnity Marine	—	—	—	—	—	—	—	—	1,306	—	—	—	—
Law Union and Rock	8,778	675	—	—	5	—	—	3,453	—	33	—	—	—
Liverpool and London and Globe	208,461	26,500	1,645	4,265	3,423	—	—	18,466	404	7,906	643	—	—
London Assurance	56,733	3,645	214	26	9	—	—	2,123	38,670	12,349	—	—	—
London and Lancashire	71,237	11,132	3,256	1,136	—	—	—	16,241	—	580	—	—	—
London and Scottish Marine	604	107	—	—	—	—	—	45	—	—	—	—	—
Netherlands	109,199	13,083	248	—	—	—	—	65,864	54,824	10,599	—	\$2,029	—
North British and Mercantile	129,400	18,428	3,559	530	—	—	—	5,442	—	77	—	—	—
Northern Assurance	74,518	12,049	152	921	7	—	—	16,418	2,403	15,683	6,708	—	\$283
Norwich Union	62,796	8,353	415	298	10	—	—	2,956	29,353	10,158	—	—	—
Ocean Marine	—	—	—	153	30	—	—	1,277	2,161	1,043	—	—	—
Pacific Coast	—	—	—	—	—	—	—	—	2,213	—	—	—	—
Palatine	322	839	—	—	—	—	—	—	—	—	—	—	—
Phoenix Assurance	27,656	5,845	54	—	—	—	—	7	—	—	—	—	—
Royal	88,966	14,655	504	713	88	—	—	11,805	—	5,054	—	—	—
Royal Exchange	288,351	28,789	817	6,491	970	—	—	53,652	26,262	105	10,383	—	—
Scottish Union and National	77,917	11,674	790	425	108	—	—	3,884	18,803	3,418	—	—	—
Sea	123,994	13,877	386	246	365	—	—	47,942	—	1,072	—	—	—
Standard Marine	7,560	471	—	—	—	—	—	66,507	14,356	24,184	—	—	—
State Assurance	398	694	—	—	—	—	—	—	1,224	1,301	—	—	—
Sun	88,415	9,739	384	326	112	—	—	4,987	36,743	17,584	423	—	—
"Switzerland" General	1,902	120	—	1	—	—	—	—	205	569	—	—	—
Thames and Mersey	—	—	—	—	—	—	—	—	15,467	—	—	—	—
Union Assurance	18,338	1,329	—	—	65	—	—	1,424	343	1,211	—	—	—
Union of Canton	4,533	509	—	7	4	—	—	—	—	320	—	—	—
Union Marine	33,705	2,811	15	406	77	—	—	776	2,101	408	—	—	—
Western Assurance	11,698	314	—	—	—	—	—	319	5,086	—	—	—	—
Yorkshire	92,450	9,785	240	271	—	—	—	22,269	—	—	—	—	—
Totals	\$1,773,754	\$225,949	\$13,783	\$17,541	\$5,299	—	—	\$362,728	\$314,619	\$118,562	\$18,480	\$2,029	\$283

Recapitulation												
Massachusetts Mutual companies other than manufacturers' (29 companies) . . . . .	\$2,193,714	\$504,963	\$5,746	\$5,966	\$104	\$32	-	\$721,261	\$49,498	\$15,406	-	\$11,618
Mutual companies of other states other than manufacturers' (29 companies) . . . . .	930,754	144,701	7,696	2,610	52	-	-	139,641	\$-34,286	58,621	1,836	\$29,096
Massachusetts manufacturers' mutuals (3 companies) . . . . .	261,836	-	-	-	-	-	-	-	-	-	-	-
Manufacturers' mutuals of other states (6 companies) . . . . .	494,022	-	-	-	-	-	-	-	-	-	-	-
Massachusetts stock companies (7 companies) . . . . .	1,237,159	206,726	7,576	10,780	937	-	\$5,604	311,343	374,984	107,492	2,078	573
Stock companies of other states (157 companies) . . . . .	10,597,599	1,435,884	104,894	129,372	8,854	5,976	23,920	2,585,842	1,087,889	1,542,646	55,021	10,280
United States branches, companies of other countries (38 companies) . . . . .	1,773,754	223,949	13,783	17,541	5,299	-	-	362,728	314,619	118,562	18,480	2,929
Totals (269 companies) . . . . .	\$17,488,838	\$2,516,223	\$139,695	\$166,269	\$15,246	\$6,008	\$29,524	\$4,120,815	\$1,743,206	\$1,876,819	\$92,821	\$42,878
												\$22,684

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946*

	Abington Mutual	Aetna	Agricultural	Albany	Allemanina	Alliance Assurance (U.S. Branch)	Alliance	Allied American Mutual
<i>From Underwriting</i>								
Premiums earned . . . . .	\$338,530	\$38,010,132	\$10,132,846	\$805,189	\$2,411,986	\$1,777,391	\$6,360,315	\$1,620,023
Profit and loss . . . . .	205	56,089	1,286	4,759	6,833	1,769,712	39,114	1,582,983
Total underwriting income earned . . . . .	338,735	37,964,043	10,131,560	800,450	2,411,353	1,769,712	6,399,429	1,582,983
Losses incurred . . . . .	162,019	20,092,043	5,667,789	440,257	1,189,424	991,641	3,804,141	788,641
Expenses incurred . . . . .	136,064	19,755,506	5,614,564	436,784	1,302,353	666,547	3,776,435	449,199
Total losses and expenses . . . . .	298,083	39,847,549	11,302,353	877,041	2,491,807	1,658,188	7,580,576	1,237,840
UNDERWRITING GAIN OR LOSS . . . . .	40,052	-1,893,506	-1,170,793	-76,611	-80,454	111,524	-1,181,147	355,143
<i>From Investments</i>								
Interest and rents earned . . . . .	\$18,731	\$2,052,144	\$680,057	\$113,588	\$212,012	\$133,434	\$504,018	\$46,094
Profit on investments . . . . .	82	162,781	619,542	39,249	19,758	28,928	15,514	75
Total investment income earned . . . . .	18,813	2,214,925	1,299,599	152,837	231,770	162,362	519,532	46,169
Loss on investments . . . . .	7,895	3,227,406	1,711,941	97,565	215,109	108,813	633,807	6,320
Expenses incurred . . . . .	2,726	475,266	114,601	5,516	23,736	6,273	19,058	6,981
Total losses and expenses . . . . .	10,621	3,702,672	1,826,542	103,081	238,845	115,086	652,865	13,301
INVESTMENT GAIN OR LOSS . . . . .	8,192	-1,487,747	-526,943	49,756	-7,075	47,276	-133,333	32,868
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	-	\$1,350,000	\$420,000	\$75,000	\$144,000	-	\$350,000	\$7,000
Policyholders' dividends declared . . . . .	\$50,818	-	-	-	-	-	-	199,994
Receipts from home office . . . . .	-	-	-	-	-	\$34,085	-	-
Remittances to home office . . . . .	-	-	-	-	-	-263,254	-	-
Special reserves . . . . .	-	2,398,479	700,000	-	-	-	-2,083,235	-13,735
Other income or loss . . . . .	-4,383	-1,395,834	-24,682	-22,802	-16,687	-91,922	-52,714	-36,630
MISCELLANEOUS GAIN OR LOSS . . . . .	-55,201	-47,355	255,318	-97,802	-160,687	-325,491	-2,485,949	-237,368
GAIN OR LOSS IN SURPLUS . . . . .	-6,957	-3,728,608	-1,444,418	-124,657	-248,216	-166,691	-3,860,429	136,643
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	47.86	52.86	56.13	54.68	49.31	55.79	59.81	48.68
Underwriting expenses incurred to premiums earned . . . . .	40.37	51.97	55.41	54.25	54.00	37.50	59.38	27.73
Investment expenses incurred to interest and rents earned . . . . .	14.56	23.16	16.85	4.86	11.20	4.70	3.78	15.15
Losses, expenses and dividends to income earned . . . . .	100.72	111.78	118.53	110.68	108.76	91.78	124.06	88.96

\*Minus sign indicates loss in surplus.



TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Allied Fire	American (N. J.)	American Alliance	American Automobile	American Aviation	American Central	American Druggists	American Eagle
<i>From Underwriting</i>								
Premiums earned . . . . .	\$584,795	\$28,215,376	\$3,620,402	\$4,212,552	\$1,424,911	\$3,647,385	\$469,288	\$9,882,536
Profit and loss . . . . .	—4,829	—111,053	—8,858	—12,599	—32,190	—23,020	—312	—15,337
Total underwriting income earned . . . . .	579,966	28,103,723	3,611,544	4,199,953	1,392,721	3,624,365	459,976	9,867,199
Losses incurred . . . . .	240,106	14,310,036	2,025,940	2,104,362	884,286	2,058,357	195,431	4,951,788
Expenses incurred . . . . .	226,762	14,299,865	1,987,271	2,220,205	782,249	2,170,395	138,696	5,236,674
Total losses and expenses . . . . .	466,868	28,609,901	4,013,211	4,324,567	1,666,535	4,228,952	334,127	10,188,462
UNDERWRITING GAIN OR LOSS . . . . .	113,098	—506,178	—401,667	—124,614	273,514	—604,596	125,849	—321,263
<i>From Investments</i>								
Interest and rents earned . . . . .	\$27,157	\$1,923,556	\$465,380	\$85,746	\$47,792	\$229,547	\$175,047	\$1,752,457
Profit on investments . . . . .	1,078	953,789	43,315	59,084	8,559	7,883	565	254,980
Total investment income earned . . . . .	28,235	2,877,345	508,695	144,830	56,351	237,430	175,612	2,007,437
Loss on investments . . . . .	7,396	3,360,892	762,836	80,031	127,258	231,528	36,476	2,021,792
Expenses incurred . . . . .	2,086	440,766	17,393	13,572	4,140	17,340	90,854	504,084
Total losses and expenses . . . . .	9,482	3,801,658	780,429	93,603	131,398	248,868	127,330	2,525,876
INVESTMENT GAIN OR LOSS . . . . .	18,753	—924,313	—271,734	51,227	—75,047	—11,438	51,282	—518,439
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	—	\$936,247	\$300,000	—	—	\$175,000	\$75,000	\$800,000
Policyholders' dividends declared . . . . .	\$109,403	—	—	—	—	—	3,232	—
Receipts from home office . . . . .	—	—	—	—	—	—	—	—
Remittances to home office . . . . .	—	—	—	—	—	—	—	—
Special reserves . . . . .	—	—	—	—	—	—	—	—
Other gain or loss . . . . .	—3,831	—560,421	—	\$1,000,000	\$275,000	—	—	—3,000,000
MISCELLANEOUS GAIN OR LOSS . . . . .	—113,234	—1,496,668	18,221	139,518	—73,047	—47,386	—72,866	185,405
GAIN OR LOSS IN SURPLUS . . . . .	18,617	—2,927,159	—281,779	1,139,518	201,953	—222,386	—151,098	—3,985,405
Percentages . . . . .	—	—	—955,180	1,066,131	—146,908	—838,420	26,033	—4,525,167
Losses incurred to premiums earned . . . . .	41.06	50.72	55.96	49.95	62.06	56.44	42.46	50.11
Underwriting expenses incurred to premiums earned . . . . .	38.78	50.68	54.89	52.71	54.90	59.51	30.13	52.99
Investment expenses incurred to interest and rents earned . . . . .	7.68	22.91	3.78	15.83	8.66	7.55	51.03	28.76
Losses, expenses and dividends to income earned . . . . .	96.31	107.64	123.62	101.69	124.07	120.48	84.51	113.81

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	American Equitable	American and Foreign	American National	American Reserve	American Union	Anchor	Arkwright Mutual	Associated Merchants Mutual
<i>From Underwriting</i>								
Premiums earned . . . . .	\$11,345,096	\$2,684,512	—	\$3,841,009	\$411,089	\$1,243,325	\$3,910,554	\$55,450
Profit and loss . . . . .	—2,600	26,700	—	—7,083	411,631	—3,233	56,273	851
Total underwriting income earned . . . . .	11,342,496	2,657,812	—	3,833,926	411,730	1,240,092	3,967,327	56,301
Losses incurred . . . . .	6,102,637	1,530,387	—	2,013,391	193,609	678,578	768,792	20,156
Expenses incurred . . . . .	6,351,412	1,374,155	\$—56,095	1,992,116	264,477	650,510	503,244	19,983
Total losses and expenses . . . . .	12,454,049	2,904,542	—56,095	4,005,507	458,086	1,329,088	1,272,036	40,139
UNDERWRITING GAIN OR LOSS . . . . .	—1,111,553	—246,730	56,095	—171,581	—46,366	—88,996	2,695,291	16,162
<i>From Investments</i>								
Interest and rents earned . . . . .	\$607,960	\$243,903	\$51,837	\$222,068	\$110,004	\$99,909	\$329,958	\$5,819
Profit on investments . . . . .	1,059,784	240,523	14,472	135,696	67,949	8,086	6,065	—
Total investment income earned . . . . .	1,727,744	484,426	66,329	357,764	177,953	107,995	336,023	5,819
Loss on investments . . . . .	2,970,649	250,002	12,699	590,382	10,407	101,166	206,938	6,759
Expenses incurred . . . . .	32,816	10,468	2,248	28,272	6,103	4,707	15,765	298
Total losses and expenses . . . . .	3,003,465	260,470	14,947	618,654	16,510	105,873	222,703	7,057
INVESTMENT GAIN OR LOSS . . . . .	—1,275,721	223,956	51,382	—260,890	161,443	2,122	113,320	—1,238
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	\$300,000	\$225,000	\$40,000	\$100,000	\$100,000	\$50,000	\$2,610,894	—
Policyholders' dividends declared . . . . .	—	—	—	—	—	—	—	—
Receipts from home office . . . . .	—	—	—	—	—	—	—	—
Remittances to home office . . . . .	—	—	—	—	—	—	—	—
Special reserves . . . . .	—	—	—	100,000	—	—	—	—
Other gain or loss . . . . .	107,886	71,114	—32,195	93,011	—34,067	30,403	—27,993	1,000
MISCELLANEOUS GAIN OR LOSS . . . . .	—102,114	—153,886	—72,195	93,011	—134,067	—19,597	—2,638,887	—17,898
GAIN OR LOSS IN SURPLUS . . . . .	—2,579,388	—176,660	35,282	—339,460	—18,990	—106,471	169,724	—2,974
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	53.79	57.01	—	52.42	47.10	54.58	19.66	36.35
Underwriting expenses incurred to premiums earned . . . . .	55.98	51.19	—	51.86	64.34	52.32	12.87	36.04
Investment expenses incurred to interest and rents earned . . . . .	4.91	4.29	4.34	12.73	5.55	4.71	4.78	5.13
Losses, expenses and dividends to income earned . . . . .	120.56	107.89	—	112.70	97.44	110.15	95.41	106.40

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Atlantic Mutual	Atlas Assurance (U. S. Branch)	Attleborough Mutual	Automobile (Conn.)	Automobile Mutual (R. I.)	Baltimore American	Bankers and Shippers	Barnstable County Mutual
<i>From Underwriting</i>								
Premiums earned . . . . .	\$8,321,035	\$4,667,579	\$46,889	\$23,416,758	\$553,124	\$3,189,992	\$3,816,147	\$103,973
Profit and loss . . . . .	-162,031	-40,218	391	33,583	-2,350	-40,110	-489	-
Total underwriting income earned . . . . .	8,159,004	4,627,361	47,280	23,450,341	550,774	3,149,882	3,815,658	103,973
Losses incurred . . . . .	4,425,051	2,511,399	26,861	12,217,401	151,404	1,879,231	1,931,333	34,650
Expenses incurred . . . . .	3,056,597	2,448,791	10,638	13,128,456	265,884	1,865,098	2,125,494	26,521
Total losses and expenses . . . . .	7,481,648	4,960,190	37,499	25,345,857	417,288	3,744,329	4,056,827	61,171
UNDERWRITING GAIN OR LOSS . . . . .	677,356	-332,829	9,781	-1,895,516	133,486	-594,447	-241,169	42,802
<i>From Investments</i>								
Interest and rents earned . . . . .	\$881,538	\$204,946	\$2,794	\$1,007,275	\$136,088	\$298,480	\$188,363	\$18,119
Profit on investments . . . . .	523,970	53,689	428	64,956	5,354	323,236	329,215	944
Total investment income earned . . . . .	1,405,508	258,635	3,222	1,072,231	141,442	621,716	517,578	19,063
Loss on investments . . . . .	1,088,870	300,912	617	1,290,550	135,737	725,686	470,355	5,068
Expenses incurred . . . . .	18,573	18,573	106	84,203	10,889	13,420	8,421	1,132
Total losses and expenses . . . . .	1,578,774	319,485	723	1,374,753	146,626	739,106	478,776	6,200
INVESTMENT GAIN OR LOSS . . . . .	-173,266	-60,850	2,499	-302,522	-5,184	-117,390	38,802	12,863
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	-	-	-	\$700,000	-	\$180,000	\$160,000	-
Policyholders' dividends declared . . . . .	\$1,075,342	-	\$13,589	-	\$271,734	-	-	\$55,211
Receipts from home office . . . . .	-	\$2,271	-	-	-	-	-	-
Remittances to home office . . . . .	-	-193,009	-	-	-	-	-	-
Special reserves . . . . .	123,457	-	-	1,565,246	200,000	47,523	-18,164	-2,800
Other gain or loss . . . . .	-128,882	-20,315	-	-325,350	-49,780	47,523	-18,164	-58,011
MISCELLANEOUS GAIN OR LOSS . . . . .	-1,080,767	-211,053	-13,589	539,896	-121,514	-132,477	-178,164	-58,011
GAIN OR LOSS IN SURPLUS . . . . .	-576,677	-604,732	-1,309	-1,658,142	6,788	-844,314	-380,531	-2,346
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	53.18	53.81	57.29	52.17	27.37	58.91	50.61	33.32
Underwriting expenses incurred to premiums earned . . . . .	36.63	52.46	22.69	56.06	48.07	58.83	55.70	38.60
Investment expenses incurred to interest and rents earned . . . . .	55.57	9.06	3.81	8.36	8.00	4.50	4.47	6.24
Losses, expenses and dividends to income earned . . . . .	105.97	108.06	102.59	111.82	124.33	123.65	108.36	99.63

\* Minus sign indicates loss in surplus.



TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Berkshire Mutual	Birmingham	Blackstone Mutual	Boston	Boston Manufacturers' Mutual	British America (U. S. Branch)	British and Foreign (U. S. Branch)	British General (U. S. Branch)
<i>From Underwriting</i>								
Premiums earned	\$1,014,864	\$277,986	\$4,513,012	\$7,726,745	\$7,849,146	\$1,031,004	\$2,157,206	\$524,545
Profit and loss	774	52	—15,694	—51,686	—23,182	89	3,986	—3,945
Total underwriting income earned	1,015,638	278,038	4,497,318	7,675,059	7,825,964	1,031,093	2,161,192	520,600
Losses incurred	454,990	153,531	705,506	4,471,482	1,915,043	623,807	1,254,625	296,907
Expenses incurred	320,509	122,844	610,246	4,298,850	1,116,127	565,304	991,045	213,625
Total losses and expenses	775,499	276,375	1,315,752	8,771,332	3,031,170	1,189,111	2,245,670	610,532
UNDERWRITING GAIN OR LOSS	240,139	1,663	3,181,566	—1,096,273	4,794,794	—158,018	—84,478	—89,932
<i>From Investments</i>								
Interest and rents earned	\$38,668	\$80,783	\$309,900	\$1,053,978	\$553,029	\$98,298	\$127,332	\$45,103
Profit on investments	10,152	100,433	47,671	438,642	84,367	—	205,168	7,814
Total investment income earned	48,820	181,216	357,571	1,492,620	637,396	98,298	332,500	52,917
Loss on investments	10,872	152,886	303,982	2,110,895	561,399	89,612	93,689	23,929
Expenses incurred	4,301	6,880	13,680	124,779	32,286	4,409	7,010	2,602
Total losses and expenses	15,173	159,816	317,662	2,235,674	593,685	94,021	100,699	26,531
INVESTMENT GAIN OR LOSS	33,647	21,400	39,909	—743,054	43,711	4,277	231,801	26,386
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	\$50,000	—	\$860,000	—	—	—	—
Policyholders' dividends declared	\$243,953	—	\$2,659,493	—	\$4,885,285	—	\$156,534	—
Receipts from home office	—	—	—	—	—	—	—295,292	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	3,000	—	—	2,860,375	419,989	—	—	—
Other gain or loss	—5,926	—19,380	—194,808	—341,529	—142,689	—33,818	—67,128	—15,362
MISCELLANEOUS GAIN OR LOSS	—246,879	—69,380	—2,854,301	1,858,846	—4,607,985	—54,308	—205,886	—60,520
GAIN OR LOSS IN SURPLUS	26,907	—46,317	367,174	19,519	230,520	—208,049	—58,563	—124,066
<i>Percentages</i>								
Losses incurred to premiums earned	44.83	55.23	15.63	57.87	24.40	60.50	58.16	56.60
Underwriting expenses incurred to premiums earned	31.58	44.19	13.53	55.65	14.22	54.83	45.94	59.79
Investment expenses incurred to interest and rents earned	11.12	8.58	4.41	11.84	100.55	4.49	5.51	5.77
Losses, expenses and dividends to income earned	97.19	105.87	88.42	127.26	—	113.61	94.09	111.08

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Buffalo	Caledonian-American	Caledonian (U. S. Branch)	California	Cambridge Mutual	Camden	Capital (Cal.)	Capital (N. H.)
<i>From Underwriting</i>								
Premiums earned	\$3,196,377	\$768,860	\$2,828,841	\$2,216,213	\$814,380	\$9,926,009	\$707,715	\$50,431
Profit and loss	7,268	-16,736	-17,936	-18,243	1,148	-5,571	-14,254	-1
Total underwriting income earned	3,203,645	752,124	2,810,905	2,197,970	815,528	9,920,438	693,461	50,430
Losses incurred	1,583,592	469,180	1,738,981	1,251,780	349,291	5,426,893	400,709	20,512
Expenses incurred	1,874,699	478,532	1,709,386	1,305,060	406,067	5,337,354	392,080	34,983
Total losses and expenses	3,458,291	947,712	3,508,367	2,556,840	755,358	10,764,247	793,389	55,495
UNDERWRITING GAIN OR LOSS	-254,646	-195,588	-697,462	-338,870	59,570	-843,809	-99,928	-5,065
<i>From Investments</i>								
Interest and rents earned	\$266,383	\$49,770	\$121,068	\$237,690	\$48,494	\$566,007	\$60,840	\$21,910
Profit on investments	56,967	44,586	12,551	3,157	18,180	71,511	126,941	13,116
Total investment income earned	323,350	94,356	133,619	240,847	66,674	637,518	187,781	35,026
Loss on investments	195,248	52,571	59,618	67,411	83,779	596,223	27,182	21,593
Expenses incurred	61,873	10,723	35,809	69,757	2,287	48,097	4,494	588
Total losses and expenses	257,121	63,294	95,427	137,168	86,066	644,320	31,676	22,181
INVESTMENT GAIN OR LOSS	66,229	31,062	38,192	103,679	-19,392	-6,802	156,105	12,845
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$120,000	-	-	\$100,000	\$118,520	\$400,000	\$50,000	\$8,139
Policyholders' dividends declared	-	-	-	-	-	-	-	-
Receipts from home office	-	-	\$515,363	-	-	-	-	-
Remittances to home office	-	-	-19,507	-	-	-	-	-
Special reserves	-	-	-	-	-	-	-	-
Other gain or loss	-2,282	\$24,472	91,764	-29,959	30,000	400,000	-15,399	-
MISCELLANEOUS GAIN OR LOSS	-122,282	24,472	587,620	-129,959	-99,200	-24,719	-10,691	-2,632
GAIN OR LOSS IN SURPLUS	-310,699	-140,054	-71,650	-385,150	-59,022	-875,330	-76,090	-10,771
							-19,913	-2,991
<i>Percentages</i>								
Losses incurred to premiums earned	49.54	61.02	61.47	56.48	42.89	54.67	56.62	40.67
Underwriting expenses incurred to premiums earned	58.65	62.24	62.55	58.89	49.93	53.78	45.48	69.36
Investment expenses incurred to interest and rents earned	23.23	21.55	29.58	29.35	4.72	8.50	7.39	2.68
Losses, expenses and dividends to income earned	108.74	119.44	122.39	114.56	108.88	111.85	126.22	100.42

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Carolina	Centennial	Central Manufacturers Mutual	Central State	Central Union	Century (U. S. Branch)	Charter Oak	Church Properties
<i>From Underwriting</i>								
Premiums earned . . . . .	\$1,262,958	\$1,781,413	\$6,792,635	—	\$169,795	\$2,145,212	\$887,242	\$51,994
Profit and loss . . . . .	—4,146	—69,536	2,785	\$12,268	3,475	1,947	7,583	51,994
Total underwriting income earned . . . . .	1,258,812	1,711,877	6,795,420	12,268	166,320	2,146,159	\$79,659	14,906
Losses Incurred . . . . .	781,987	1,043,157	2,910,767	—	89,510	1,116,700	398,254	21,254
Expenses incurred . . . . .	727,555	672,767	2,944,046	—	124,296	1,239,659	470,848	35,860
Total losses and expenses . . . . .	1,509,542	1,715,924	5,854,813	—	213,806	2,356,359	869,102	16,134
UNDERWRITING GAIN OR LOSS . . . . .	—250,730	—4,047	940,607	12,268	—47,486	—210,200	10,557	—
<i>From Investments</i>								
Interest and rents earned . . . . .	\$106,215	\$65,483	\$283,048	\$69,650	\$53,393	\$203,473	\$64,502	\$23,680
Profit on investments . . . . .	86,864	29,727	31,008	24,508	26,074	270,775	—	22,408
Total investment income earned . . . . .	193,079	95,210	314,056	94,158	79,467	474,248	64,502	46,088
Loss on investments . . . . .	273,525	3,373	243,105	101,200	4,217	400,364	—	26,759
Expenses incurred . . . . .	4,570	6,008	45,978	3,993	3,293	12,763	7,971	1,625
Total losses and expenses . . . . .	278,095	9,381	289,083	105,193	7,510	413,127	7,971	28,384
INVESTMENT GAIN OR LOSS . . . . .	—85,016	85,829	24,973	—11,035	71,957	61,121	56,531	17,704
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	\$70,000	—	—	\$60,000	\$25,000	—	\$40,000	\$15,000
Policyholders' dividends declared . . . . .	—	—	\$1,002,122	—	—	—	—	—
Receipts from home office . . . . .	—	—	—	—	—	\$17,990	—	—
Remittances to home office . . . . .	—	—	—	—	—	—137,794	—	—
Special reserves . . . . .	—	—	—	—	—	—	—	—
Other gain or loss . . . . .	4,316	\$—235,053	—21,728	—12,617	20,662	23,299	—20,155	—27,872
MISCELLANEOUS GAIN OR LOSS . . . . .	—65,684	—235,053	—1,023,850	—72,617	—4,338	—96,505	—60,155	—42,872
GAIN OR LOSS IN SURPLUS . . . . .	—401,430	—153,271	—58,270	—71,384	20,133	—245,584	6,933	—9,034
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	61.92	58.56	42.85	—	52.72	52.06	44.89	28.09
Underwriting expenses incurred to premiums earned . . . . .	57.61	37.77	43.34	—	73.20	57.78	53.06	40.88
Investment expenses incurred to interest and rents earned . . . . .	4.30	9.17	16.24	5.73	6.17	6.27	12.36	6.86
Losses, expenses and dividends to income earned . . . . .	127.95	95.47	100.51	155.22	100.22	105.69	97.13	80.79

\*Minus sign indicates loss in surplus.



TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Citizens (N. J.)	City of New York	Columbia (N. Y.)	Columbia (Ohio)	Commerce	Commercial Union Assurance (U. S. Branch)	Commercial Union (N. Y.)	Commonwealth
<i>From Underwriting</i>								
Premiums earned	\$812,576	\$2,433,893	\$1,593,003	\$1,077,018	\$2,647,846	\$8,325,211	\$1,759,165	\$2,878,700
Profit and loss	184	-22,770	-53,721	-183	-18,362	-43,161	-4,765	8,477
Total underwriting income earned	812,392	2,411,123	1,539,282	1,076,835	2,629,484	8,282,050	1,754,400	2,887,177
Losses incurred	506,436	1,427,532	946,950	537,168	1,431,488	4,280,943	994,033	1,385,785
Expenses incurred	232,498	1,441,051	976,561	565,034	1,358,809	4,575,945	1,049,771	1,651,907
Total losses and expenses	738,934	2,868,583	1,923,511	1,102,202	2,790,297	8,856,888	2,043,804	3,037,692
UNDERWRITING GAIN OR LOSS	73,444	-457,460	-384,229	-25,367	-160,813	-574,838	-289,404	-150,515
<i>From Investments</i>								
Interest and rents earned	\$116,186	\$228,030	\$132,403	\$144,237	\$191,578	\$586,866	\$110,408	\$255,272
Profit on investments	10,756	193,088	170,192	131,068	53,260	16,893	10,628	14,989
Total investment income earned	126,942	421,118	302,595	275,305	244,838	603,759	121,036	270,261
Loss on investments	75,334	657,179	147,645	288,577	189,984	325,458	82,366	239,038
Expenses incurred	4,437	7,670	6,257	4,800	12,659	170,298	6,533	11,800
Total losses and expenses	79,761	664,849	153,902	293,467	202,643	495,756	88,899	250,838
INVESTMENT GAIN OR LOSS	47,181	-243,731	148,693	-18,162	42,195	108,003	32,137	19,423
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$30,000	\$150,000	\$100,000	\$100,000	\$100,000	-	\$80,000	\$200,000
Policyholders' dividends declared	-	-	-	-	-	-	-	-
Receipts from home office	-	-	-	-	-	\$227,016	-	-
Remittances to home office	-	-	-	-	-	-1,123,451	-	-
Special reserves	-	-	-	-	-	-	-	-
Other gain or loss	-52,836	173	55,193	-19,350	182,915	26,165	-27,624	12,181
MISCELLANEOUS GAIN OR LOSS	-82,836	-149,827	-44,897	-119,350	-39,511	-870,270	-107,624	-187,819
GAIN OR LOSS IN SURPLUS	37,789	-851,018	-280,343	-162,879	-75,214	-1,337,105	-364,891	-318,911
<i>Percentages</i>								
Losses incurred to premiums earned	62.33	58.65	59.44	49.88	54.06	51.42	56.51	48.14
Underwriting expenses incurred to premiums earned	28.61	59.20	61.31	52.46	51.32	54.96	59.67	57.39
Investment expenses incurred to interest and rents earned	3.81	3.36	4.73	3.39	107.61	29.02	5.92	4.62
Losses, expenses and dividends to income earned	90.35	130.05	118.22	110.61	107.61	103.25	117.98	110.49

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Concordia	Connecticut	Continental	Cotton and Woolen Manufacturers Mutual	County	Detroit Fire and Marine	Dixie	Dorchester Mutual
<i>From Underwriting</i>								
Premiums earned	\$2,457,855	\$9,198,495	\$32,147,977	\$2,799,965	\$862,738	\$1,558,766	\$538,509	\$327,611
Profit and loss	—2,801	—2,079	—78,797	210	—1,772	—3,543	6,737	157
Total underwriting income earned	2,455,054	9,196,416	32,069,180	2,800,175	860,966	1,555,223	544,646	327,768
Losses incurred	1,398,530	5,107,243	17,291,643	635,419	498,933	884,415	268,584	200,528
Expenses incurred	1,482,962	5,164,475	14,120,656	394,226	467,472	840,630	281,936	123,108
Total losses and expenses	2,881,492	10,271,718	31,412,299	1,029,645	966,405	1,725,045	550,520	323,636
UNDERWRITING GAIN OR LOSS	—226,438	—1,075,302	656,881	1,770,530	—105,439	—169,822	—5,874	4,132
<i>From Investments</i>								
Interest and rents earned	\$169,932	\$876,022	\$5,337,736	\$230,349	\$120,473	\$174,325	\$105,471	\$21,782
Profit on investments	85,372	235,174	1,138,365	17,535	7,642	92,986	2,117	2,117
Total investment income earned	255,304	1,111,196	6,476,101	247,884	128,115	185,635	108,457	23,899
Loss on investments	255,069	1,014,559	10,587,254	142,566	185,921	192,888	228,548	17,806
Expenses incurred	6,415	36,791	185,260	15,685	8,546	22,750	32,450	926
Total losses and expenses	261,484	1,051,350	10,772,514	158,251	194,467	215,638	260,998	18,732
INVESTMENT GAIN OR LOSS	—6,180	59,846	—4,296,413	89,653	—60,352	—30,003	—61,541	5,167
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$150,000	\$650,000	\$3,999,989	—	\$80,000	\$100,000	\$50,000	—
Policyholders' dividends declared	—	—	—	\$1,779,544	—	—	—	\$76,924
Receipts from home office	—	—	—	—	—	—	—	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—10,937	90,760	—8,226	—61,421	—10,395	—2,796	—6,841	—3,730
MISCELLANEOUS GAIN OR LOSS	—160,957	—559,240	—965,169	—1,840,965	—90,395	—102,796	—56,841	—80,654
GAIN OR LOSS IN SURPLUS	—393,575	—1,574,696	—8,612,916	19,218	—262,186	—302,621	—125,256	—71,355
<i>Percentages</i>								
Losses incurred to premiums earned	52.62	55.52	53.79	22.69	57.83	56.74	49.88	61.21
Underwriting expenses incurred to premiums earned	55.80	56.15	43.92	14.08	54.18	53.93	52.36	37.58
Investment expenses incurred to interest and rents earned	3.78	4.20	3.47	6.80	7.09	13.05	30.77	4.25
Losses, expenses and dividends to income earned	113.15	116.16	119.82	97.35	125.46	117.22	115.94	119.23

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Dubuque Fire and Marine	Eagle (N. Y.)	Eagle Star (U. S. Branch)	East and West	Empire State	Employers* Fire	Employers Mutual (Wisconsin)	Equitable Fire and Marine
<i>From Underwriting</i>								
Premiums earned		\$826,564	\$897,169	\$1,661,068	\$2,533,211	\$6,073,973	\$962,869	\$1,839,699
Profit and loss	\$2,419,212	—4,855	—3,607	—19,633	—523	4,111	—135	—2,868
Total underwriting income earned	2,421,887	821,709	893,562	1,641,435	2,532,688	6,078,084	962,734	1,836,831
Losses incurred	1,693,480	476,553	468,435	1,000,043	1,421,947	3,630,783	364,637	1,021,449
Expenses incurred	1,154,935	490,806	290,091	915,154	1,403,515	3,146,930	301,078	1,022,342
Total losses and expenses	2,848,415	966,859	758,526	1,915,797	2,825,462	6,777,713	665,715	2,043,791
UNDERWRITING GAIN OR LOSS	—426,528	—145,150	135,036	—274,362	—292,774	—699,629	—297,019	—206,960
<i>From Investments</i>								
Interest and rents earned		\$77,953	\$130,254	\$140,786	\$167,734	\$242,363	\$25,401	\$252,367
Profit on investments	\$121,565	28,027	26,762	19,114	230,176	226,707	2,088	16,189
Total investments	20,637	106,380	157,016	159,900	397,910	469,070	27,489	268,556
Loss on investments	604,811	11,228	163,635	135,588	374,761	380,255	16,801	271,777
Expenses incurred	23,260	3,993	14,368	12,033	10,376	11,315	1,446	1,265
Total losses and expenses	633,071	15,221	178,003	147,621	385,137	391,570	18,247	283,042
INVESTMENT GAIN OR LOSS	—431,869	91,359	—20,987	12,279	12,773	77,500	9,242	—14,506
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	\$37,500	—	\$60,000	\$120,000	\$75,000	—	\$100,000
Policyholders' dividends declared	—	—	—	—	—	—	\$132,330	—
Receipts from home office	—	—	\$7,585	—	—	—	—	—
Remittances to home office	—	—	—186,551	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—	—	—	—	—	—	—	—
MISCELLANEOUS GAIN OR LOSS	\$—298,484	—23,418	—123,964	—34,104	—8,208	669,600	—43,082	25,845
GAIN OR LOSS IN SURPLUS	—1,156,881	—60,918	—602,930	—94,104	—128,208	620,294	—175,412	—74,155
		—114,709	—488,881	—356,187	—408,209	—1,835	130,849	—295,621
<i>Percentages</i>								
Losses incurred to premiums earned	70.00	57.65	52.21	60.24	56.13	59.78	37.89	55.52
Underwriting expenses incurred to premiums earned	47.74	59.32	32.33	55.10	55.40	51.81	31.26	55.57
Investment expenses incurred to interest and rents earned	23.25	5.12	11.03	8.55	6.19	4.67	5.69	4.46
Losses, expenses and dividends to income earned	132.72	109.83	88.84	117.88	113.65	110.65	82.44	115.27

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Excelsior	Export	Farmers (Pa.)	Federal	Federal Mutual	Federal Union	Fidelity and Guaranty	Fidelity- Phenix
<i>From Underwriting</i>								
Premiums earned	\$541,122	\$229,021	\$1,053,854	\$7,503,867	\$840,738	\$1,604,865	\$9,101,293	\$25,968,939
Profit and loss	1,844	37,765	3,624	-105,186	451	-41,685	-25,937	-104,432
Total underwriting income earned	542,966	191,256	1,057,478	7,398,681	841,189	1,563,180	9,075,356	25,864,507
Losses incurred	334,880	39,575	639,875	3,915,495	383,058	919,647	5,074,639	14,391,341
Expenses incurred	362,479	-212,755	608,802	3,214,352	399,649	898,745	4,551,669	11,319,001
Total losses and expenses	697,359	-173,180	1,248,677	7,129,847	782,707	1,818,392	9,626,308	23,710,342
UNDERWRITING GAIN OR LOSS	-144,393	364,436	-191,199	268,834	58,482	-255,212	-530,952	154,165
<i>From Investments</i>								
Interest and rents earned	\$39,920	\$23,794	\$90,140	\$764,965	\$26,047	\$37,149	\$358,239	\$4,488,920
Profit on investments	15,290	-	31,366	47,328	182	145,310	254,633	522,201
Total investment income earned	55,210	23,794	121,506	812,293	26,229	242,459	612,872	5,011,121
Loss on investments	53,221	6	-	1,144,798	2,491	65,334	421,984	10,046,066
Expenses incurred	3,417	1,642	8,269	47,608	2,707	10,387	47,651	146,734
Total losses and expenses	56,638	1,648	8,269	1,192,406	5,198	75,721	469,635	10,192,800
INVESTMENT GAIN OR LOSS	-1,428	22,146	113,237	-380,113	21,031	166,738	143,237	-5,181,679
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$24,000	\$200,000	-	\$620,000	-	\$90,000	-	\$3,299,995
Policyholders' dividends declared	-	-	-	-	\$109,643	-	-	-
Receipts from home office	-	-	-	-	-	-	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	159,839	-	-	1,154,878	-	-	-	-
Other gain or loss	-41,847	-150,124	\$-23,733	-1,000,859	-5,598	-30,591	\$3,157,576	-7,028
MISCELLANEOUS GAIN OR LOSS	93,992	-350,124	-23,733	-465,981	-115,241	-120,591	3,105,429	-500,232
GAIN OR LOSS IN SURPLUS	-51,829	36,458	-101,695	-577,260	-35,728	-209,065	2,697,714	-8,894,769
<i>Percentages</i>								
Losses incurred to premiums earned	60.04	17.28	60.72	52.18	45.56	57.30	55.76	55.42
Underwriting expenses incurred to premiums earned	66.98	.32	57.76	42.83	47.53	56.00	50.01	43.39
Investment expenses incurred to interest and rents earned	8.56	6.90	9.17	6.22	10.39	10.69	13.30	3.27
Losses, expenses and dividends to income earned	128.39	13.24	106.61	108.91	103.47	109.88	104.21	126.97

\*Minus sign indicates loss in surplus.



TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Fire Association of Philadelphia	Fireman's Fund	Firemen's (D. C.)	Firemen's (N. J.)	Firemen's Mutual	First National	Fitchburg Mutual	Franklin (Pa.)
<i>From Underwriting</i>								
Premiums earned	\$12,684,503	\$35,808,180	\$216,833	\$22,781,364	\$6,375,459	\$1,402,082	\$431,004	\$10,538,594
Profit and loss	—68,535	—372,911	3,570	—56,277	—13,484	—5,006	325	—54,897
Total underwriting income earned	12,615,968	35,435,269	220,403	22,725,087	6,561,975	1,337,076	431,329	10,483,697
Losses incurred	7,136,110	21,495,205	123,695	12,044,782	1,271,347	639,042	172,973	6,135,719
Expenses incurred	7,191,581	15,485,884	172,941	12,682,490	1,512,098	877,448	155,556	5,943,789
Total losses and expenses	14,327,691	36,981,089	296,636	24,727,272	2,783,445	1,516,490	328,529	12,079,458
UNDERWRITING GAIN OR LOSS	—1,711,723	—1,545,820	—76,233	—2,002,185	3,778,530	—119,414	102,800	—1,595,761
<i>From Investments</i>								
Interest and rents earned	\$1,090,198	\$2,852,631	\$53,931	\$2,147,448	\$414,011	\$69,045	\$24,742	\$943,003
Profit on investments	830,647	598,607	34,281	544,920	357,282	—	3,167	1,027,343
Total investment income earned	1,920,845	3,451,238	88,212	2,692,368	771,293	69,045	27,909	1,970,346
Loss on investments	2,499,745	3,250,185	23,405	4,496,208	941,171	25,250	1,995	2,473,178
Expenses incurred	2,083,331	3,900,016	10,400	3,343,848	26,550	6,370	7,659	48,526
Total losses and expenses	2,703,076	3,649,201	33,805	4,840,056	967,721	31,620	9,654	2,521,704
INVESTMENT GAIN OR LOSS	—782,231	—188,963	54,407	—2,147,688	—196,428	37,425	18,255	—351,358
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$599,587	\$1,525,791	\$21,000	\$939,769	\$3,267,742	—	\$107,418	\$600,000
Policyholders' dividends declared	—	—	—	—	—	—	—	—
Receipts from home office	—	—	—	—	—	—	—	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	—48,000	—54,936	—11,417	—	700,000	—	—	1,000,000
Other gain or loss	—38,425	470,964	488	—86,052	—84,273	—9,179	—2,531	50,677
MISCELLANEOUS GAIN OR LOSS	—686,012	1,109,763	—31,929	—1,025,821	—2,652,015	—77,599	—109,949	450,677
GAIN OR LOSS IN SURPLUS	—3,179,966	—2,844,546	—53,755	—5,175,694	930,087	—159,588	11,106	—1,696,442
<i>Percentages</i>								
Losses incurred to premiums earned	56.26	60.03	57.05	52.87	19.33	45.58	40.13	58.22
Underwriting expenses incurred to premiums earned	56.70	43.24	79.76	55.67	23.00	62.58	36.10	56.40
Investment expenses incurred to interest and rents earned	18.65	13.67	19.28	16.01	6.41	9.23	30.96	5.15
Losses, expenses and dividends to income earned	120.15	108.38	113.88	120.02	95.71	110.26	97.03	122.07

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Franklin National	Fulton	General Exchange	General (Seattle)	Gibraltar Fire and Marine	Girard Fire and Marine	Glens Falls	Globe and Republic
<i>From Underwriting</i>								
Premiums earned	\$834,022	-	\$7,452,319	\$17,018,597	\$1,772,404	\$2,656,149	\$14,954,902	\$4,727,130
Profit and loss	-2,511	-7,606	-27,544	-138,071	13,558	1,072	121,137	-1,060
Total underwriting income earned	831,511	-7,606	7,424,775	16,879,526	1,785,962	2,653,072	14,833,765	4,726,070
Losses incurred	436,548	-	4,271,306	8,490,300	1,077,187	1,398,531	5,111,766	2,542,765
Expenses incurred	458,999	3,793	7,065,338	9,300,072	1,049,091	1,482,394	7,705,280	2,639,801
Total losses and expenses	897,147	3,793	11,336,644	17,790,372	2,126,278	2,880,925	15,817,046	5,182,566
UNDERWRITING GAIN OR LOSS	-65,636	-11,399	-3,911,869	-910,446	-367,432	-228,953	-983,281	-456,496
<i>From Investments</i>								
Interest and rents earned	\$117,992	\$56,310	\$530,394	\$1,165,195	\$147,468	\$199,372	\$989,593	\$208,262
Profit on investments	5,048	48,985	593,340	522,469	225,174	49,591	192,014	742,579
Total investment income earned	123,040	105,295	1,123,734	1,687,664	372,642	248,963	1,181,607	1,010,841
Loss on investments	271,817	87,566	1,614,851	592,209	489,904	326,681	1,347,806	1,538,615
Expenses incurred	5,735	1,757	37,203	211,692	5,541	26,875	196,268	27,721
Total losses and expenses	277,552	89,323	1,652,054	803,901	495,445	353,556	1,544,074	1,566,336
INVESTMENT GAIN OR LOSS	-154,512	15,972	-528,320	883,763	-122,803	-104,593	-362,467	-555,495
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	-	-	\$340,000	\$100,000	\$160,000	\$800,000	\$100,000
Policyholders' dividends declared	-	-	-	660,804	-	-	-	-
Receipts from home office	-	-	-	-	-	-	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	-	-	\$1,255,227	-	-	-	955,007	-
Other gain or loss	\$32,837	\$20,663	1,615,843	-286,408	3,444	-6,149	422,464	-128,628
MISCELLANEOUS GAIN OR LOSS	32,837	-20,663	2,871,070	-1,287,012	-96,556	-166,149	577,471	-228,628
GAIN OR LOSS IN SURPLUS	-187,311	-16,090	-1,569,119	-1,313,695	-586,791	-499,695	-768,277	-1,240,619
<i>Percentages</i>								
Losses incurred to premiums earned	52.58	-	57.32	49.89	60.77	52.65	54.24	53.79
Underwriting expenses incurred to premiums earned	54.99	-	94.81	54.64	59.19	55.81	51.53	53.84
Investment expenses incurred to interest and rents earned	4.86	3.12	7.01	18.17	3.76	13.48	19.83	10.33
Losses, expenses and dividends to income earned	123.06	95.32	151.94	105.53	127.69	117.01	113.40	119.38

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Globe and Butgers	Grain Dealers' National Mutual	Granite State	Great American	Hanover	Hardware Dealers' Mutual	Hardware Mutual	Hartford
<i>From Underwriting</i>								
Premiums earned	\$4,994,916	\$4,539,076	\$2,576,026	\$23,532,748	\$11,038,412	\$6,642,130	\$5,272,232	\$64,440,415
Profit and loss								
Total underwriting income earned	7,831	—393	1,828	23,411,990	11,010,075	8,572	8,205	—638,666
Losses incurred	4,987,085	4,538,683	2,577,854	12,384,632	6,351,878	6,838,258	5,264,027	63,801,749
Expenses incurred	2,733,592	2,027,308	1,417,724	12,074,237	5,002,910	2,760,206	2,164,406	33,570,123
Total losses and expenses	3,016,878	1,965,781	1,391,867	12,074,237	5,002,910	2,684,332	1,839,824	33,393,015
Underwriting gain or loss	5,750,470	3,993,089	2,809,591	26,358,869	12,414,788	5,444,338	4,004,230	66,963,138
Investment gain or loss	—763,385	545,594	—231,737	—1,946,879	—1,404,711	1,193,720	1,259,797	—3,161,389
<i>From Investments</i>								
Interest and rents earned								
Profit on investments	\$384,353	\$155,690	\$176,729	\$2,260,795	\$728,689	\$151,488	\$192,707	\$5,122,251
Total investment income earned	497,414	149,456	8,913	258,458	969,899	3,234	113,304	254,825
Loss on investments	881,767	305,146	183,642	2,519,253	1,698,588	154,722	306,011	5,377,076
Expenses incurred	1,086,141	188,173	203,191	4,142,824	1,833,590	—	15,605	6,226,659
Total losses and expenses	38,293	19,530	10,424	86,141	29,935	16,551	51,659	556,281
Investment gain or loss	1,724,434	207,703	213,615	4,228,965	1,863,525	16,551	67,264	6,782,940
Miscellaneous Sources	—842,667	97,443	—27,973	—1,709,712	—164,937	138,171	238,747	—1,405,864
Stockholders' dividends declared	\$127,090	—	\$120,000	\$1,630,000	\$480,000	—	—	\$3,000,000
Policyholders' dividends declared	—	—	—	—	—	—	—	—
Receipts from home office	—	\$807,642	—	—	—	\$1,408,245	\$1,435,892	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—205,291	—79,330	—0,608	—221,841	—22,186	—48,000	—	4,180,556
MISCELLANEOUS GAIN OR LOSS	—332,381	—886,972	—129,608	—1,851,841	—502,186	—27,383	—51,242	351,319
GAIN OR LOSS IN SURPLUS	—1,938,433	—243,935	—389,318	—5,508,432	—2,071,834	—1,483,628	—1,487,134	1,340,875
						—151,737	11,410	—3,026,378
<i>Percentages</i>								
Losses incurred to premiums earned	54.73	44.66	55.04	52.63	57.54	41.56	41.05	52.10
Underwriting expenses incurred to premiums earned	60.40	43.31	54.03	55.13	54.92	40.41	34.90	51.79
Investment expenses incurred to interest and rents earned	9.96	12.54	5.90	3.81	4.11	10.93	26.81	10.86
Losses, expenses and dividends to income earned	129.53	103.40	113.74	120.39	116.13	101.12	98.88	110.94

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Hingham Mutual	Holyoke Mutual	Home (N. Y.)	Home Fire and Marine	Homeland	Homestead	Imperial Assurance	Indemnity Marine (U. S. Branch)
<i>From Underwriting</i>								
Premiums earned	\$321,287	\$1,212,273	\$79,726,135	\$6,144,006	\$1,842,899	\$1,603,380	\$1,980,896	\$878,579
Profit and loss	625	285	248,358	59,349	-0.431	-12,103	-44,005	-1,860
Total underwriting income earned	321,912	1,212,558	79,477,777	6,084,657	1,833,468	1,591,277	1,936,891	876,719
Losses incurred	155,612	547,270	43,499,163	3,556,353	1,059,163	906,608	1,176,985	499,371
Expenses incurred	146,816	550,260	40,463,122	2,947,119	1,148,796	924,908	1,243,349	357,408
Total losses and expenses	302,428	1,097,530	83,962,285	6,503,472	2,207,959	1,831,516	2,425,394	856,779
UNDERWRITING GAIN OR LOSS	19,484	115,028	-4,434,508	-418,815	-374,491	-300,239	-488,443	19,940
<i>From Investments</i>								
Interest and rents earned	\$33,881	\$130,479	\$5,405,281	\$376,458	\$117,621	\$133,400	\$148,190	\$47,015
Profit on investments	1,349	10,272	5,980,479	162,574	3,165	113,580	101,238	-
Total investment income earned	35,230	140,751	11,385,760	539,032	120,786	246,980	249,428	47,015
Loss on investments	23,304	104,021	16,381,474	718,454	112,308	373,940	131,642	15,621
Expenses incurred	2,839	29,401	481,181	16,936	6,241	6,085	8,575	2,340
Total losses and expenses	26,143	133,422	16,862,655	735,390	118,549	380,025	140,217	17,961
INVESTMENT GAIN OR LOSS	9,087	7,329	-5,476,895	-196,358	2,237	-133,045	109,221	29,054
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	\$7,000	\$3,600,000	\$200,000	\$50,000	\$50,000	\$100,000	-
Policyholders' dividends declared	\$59,962	224,067	-	-	-	-	-	-
Receipts from home office	-	-	-	-	-	-	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	-	-	10,066,859	-	-	-	-5,881	-
Other gain or loss	-3,965	-19,216	-2,556,472	-59,904	1,098	1,345	133,940	-53,850
MISCELLANEOUS GAIN OR LOSS	-63,927	-250,283	3,910,387	-259,904	-48,902	-43,655	28,059	-101,988
GAIN OR LOSS IN SURPLUS	-35,356	-127,926	-6,051,016	-875,077	-421,156	-481,939	-351,163	-52,994
<i>Percentages</i>								
Losses incurred to premiums earned	48.43	45.14	54.56	57.88	57.47	60.29	59.42	56.84
Underwriting expenses incurred to premiums earned	45.70	45.39	50.75	47.97	62.34	57.69	63.02	40.67
Investment expenses incurred to interest and rents earned	8.38	22.53	8.90	4.50	5.31	4.56	5.79	4.98
Losses, expenses and dividends to income earned	108.79	108.03	114.93	112.31	121.61	126.29	121.92	94.32

\*Minus sign indicates loss in surplus.



TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Indiana Lumbermen Mutual	Insurance Company of North America	Insurance Company of State of Pennsylvania	Inter-Ocean	Jersey	Law Union and Rock (U. S. Branch)	Liverpool and London and Globe (U. S. Branch)	London Assurance (U. S. Branch)
<i>From Underwriting</i>								
Premiums earned	\$3,400,324	\$42,718,309	\$2,024,335	\$3,412,302	\$2,437,875	\$875,898	\$12,743,515	\$5,467,152
Profit and loss	209	-37,737	-3,791	2,728	185	-6,540	63,298	-5,899
Total underwriting income earned	3,400,533	42,680,572	2,020,544	3,415,030	2,437,660	869,358	12,806,813	5,461,253
Losses incurred	1,532,419	21,947,168	1,059,885	1,791,841	1,236,391	439,777	7,255,156	3,046,846
Expenses incurred	1,416,946	21,518,029	1,155,206	1,703,732	1,361,783	444,443	7,444,019	2,928,399
Total losses and expenses	2,949,365	43,465,197	2,215,091	3,501,573	2,598,174	894,220	14,699,175	5,975,245
UNDERWRITING GAIN OR LOSS	451,168	-784,625	-194,547	-86,543	-160,484	-24,862	-2,055,958	-513,992
<i>From Investments</i>								
Interest and rents earned	\$198,419	\$0,877,472	\$181,667	\$151,570	\$125,351	\$73,057	\$563,282	\$310,246
Profit on investments	137,200	2,135,983	162,542	90,734	131,640	4,370	764,704	12,783
Total investment income earned	355,619	9,016,455	344,209	242,304	256,991	77,427	1,327,986	323,029
Loss on investments	117,610	13,404,328	501,171	141,318	228,177	81,237	408,517	375,414
Expenses incurred	77,226	766,437	24,062	29,661	5,666	4,151	27,778	18,830
Total losses and expenses	194,836	14,170,765	525,233	170,979	233,843	85,388	436,295	394,244
INVESTMENT GAIN OR LOSS	160,783	-5,154,310	-181,024	71,325	23,148	-7,961	891,691	-71,215
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	\$4,500,000	\$60,000	\$75,000	\$90,000	-	-	-
Policyholders' dividends declared	\$556,051	-	-	-	-	-	\$110,493	\$70,875
Receipts from home office	-	-	-	-	-	-	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	10,000	11,069,531	-	123,085	-	-	-	-
Other gain or loss	-128,896	-807,618	-90,291	80,102	-1,197	-231,335	-231,335	-44,537
MISCELLANEOUS GAIN OR LOSS	-674,947	5,761,913	-150,291	127,187	-91,197	-175,847	-212,522	-416,247
GAIN OR LOSS IN SURPLUS	-62,996	-177,022	-325,862	111,969	-228,533	-208,670	-1,379,789	-1,001,454
<i>Percentages</i>								
Losses incurred to premiums earned	45.07	51.38	52.36	52.51	50.72	51.35	56.93	55.73
Underwriting expenses incurred to premiums earned	41.67	50.37	57.06	50.11	55.86	50.74	58.41	53.57
Investment expenses incurred to interest and rents earned	35.39	11.14	13.24	19.57	4.52	5.68	4.94	6.07
Losses, expenses and dividends to income earned	98.51	120.19	118.42	102.47	108.44	103.47	107.56	110.14

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	London and Lancashire (U. S. Branch)	London and Scottish (U. S. Branch)	Lowell Mutual	Lumber Mutual	Lumbermen's (Pa.)	Lumbermens Mutual	Lynn Mutual	Manhattan
<i>From Underwriting</i>								
Premiums earned	\$4,231,304	\$443,425	\$257,264	\$1,686,605	\$1,985,848	\$2,992,780	\$344,209	\$1,570,239
Profit and loss	-21,782	-8,047	-812	3,759	-4,924	30	136	-16,680
Total underwriting income earned	4,209,522	435,378	256,452	1,690,364	1,980,924	2,992,810	344,345	1,553,559
Losses incurred	2,202,642	241,048	132,444	786,909	1,104,515	1,316,187	140,991	873,556
Expenses incurred	2,078,516	242,526	62,909	669,727	1,127,579	1,305,534	158,823	950,501
Total losses and expenses	4,281,158	483,574	195,353	1,456,636	2,232,094	2,621,721	299,814	1,824,057
UNDERWRITING GAIN OR LOSS	-71,636	-48,196	61,099	233,728	-251,170	371,089	44,531	-270,498
<i>From Investments</i>								
Interest and rents earned	\$223,613	\$44,435	\$10,606	\$132,651	\$187,147	\$125,086	\$21,817	\$102,995
Profit on investments	23,337	4,906	2,145	32,034	164,937	58,601	2,338	10,675
Total investment income earned	246,950	49,341	12,751	164,685	352,084	183,687	24,155	113,670
Loss on investments	273,217	10,102	16,222	73,676	535,384	33,760	14,036	76,675
Expenses incurred	12,264	2,969	382	28,286	11,137	21,137	2,797	7,102
Total losses and expenses	285,181	13,071	16,604	101,962	546,521	56,897	16,833	83,777
INVESTMENT GAIN OR LOSS	-38,531	36,270	-3,853	62,723	-194,437	126,790	7,322	29,893
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	-	-	-	\$140,000	-	-	\$50,000
Policyholders' dividends declared	-	-	\$65,486	\$280,280	-	\$462,358	\$55,700	-
Receipts from home office	-	\$687	-	-	-	-	-	-
Remittances to home office	-	-6,237	-	-	-	-	-	-
Special reserves	-	-	-	-	-	37,487	-	-
Other gain or loss	-	-7,173	-4,024	21,236	-27,951	-63,484	-4,380	-5,654
MISCELLANEOUS GAIN OR LOSS	-579,484	-12,723	-69,510	-259,044	-167,951	-488,355	-60,050	-35,654
GAIN OR LOSS IN SURPLUS	-680,651	-24,649	-12,264	37,407	-613,558	9,524	-8,227	-296,259
<i>Percentages</i>								
Losses incurred to premiums earned	52.05	54.36	51.48	46.66	55.62	43.98	40.96	55.63
Underwriting expenses incurred to premiums earned	49.12	54.69	24.44	39.71	56.78	43.63	46.14	60.53
Investment expenses incurred to interest and rents earned	5.48	6.68	3.60	21.32	5.95	16.90	12.82	6.90
Losses, expenses and dividends to income earned	101.97	102.46	103.06	99.13	125.10	101.11	101.04	117.43

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Manufacturers and Merchants Mutual	Manufacturers Mutual	Marine (U. S. Branch)	Massachusetts Fire and Marine	Mechanics and Traders (Conn.)	Mercantile	Merchants and Business Men's (Mutual)	Merchants and Farmers Mutual
<i>From Underwriting</i>								
Premiums earned	\$207,959	\$13,148,659	\$2,806,409	\$861,643	\$1,784,120	\$2,950,273	\$566,341	\$213,614
Profit and loss	—	17,571	—8,040	—1,772	—1,842	—15,937	341,870	556
Total underwriting income earned	207,952	13,166,230	2,798,360	859,871	1,782,278	2,934,336	908,211	214,170
Losses incurred	88,989	2,060,153	1,435,386	498,582	987,033	1,587,095	173,092	92,750
Expenses incurred	83,882	1,693,720	1,020,742	395,693	1,011,046	1,770,037	—45,323	72,977
Total losses and expenses	172,871	3,753,873	2,456,128	894,275	1,998,079	3,357,132	127,769	165,727
UNDERWRITING GAIN OR LOSS	35,081	9,412,357	342,232	—34,404	—215,801	—422,796	780,442	48,443
<i>From Investments</i>								
Interest and rents earned		\$967,768	\$168,608	\$144,725	\$150,670	\$240,258	\$84,275	\$11,342
Profit on investments	21,825	751,587	8,752	8,772	5,651	6,981	7,143	450
Total investment income earned	64,548	1,719,355	177,360	153,497	156,321	247,239	91,418	11,792
Loss on investments	34,493	1,343,893	105,772	142,197	262,486	219,895	23,045	1,389
Expenses incurred	1,593	45,285	11,369	5,472	8,041	11,136	6,468	819
Total losses and expenses	36,086	1,389,178	117,141	147,669	270,527	231,031	30,113	2,208
INVESTMENT GAIN OR LOSS	28,462	330,177	60,219	5,828	—114,206	16,208	61,305	9,584
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$10,110	—	—	\$100,000	—	\$200,000	—	—
Policyholders' dividends declared	47,968	\$8,665,365	—	—	—	—	\$637,767	\$64,242
Receipts from home office	—	—	\$86,303	—	—	—	—	—
Remittances to home office	—	—	—723,367	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—2,962	—932,466	—259,655	—15,252	\$100,000	—	—125,000	—
MISCELLANEOUS GAIN OR LOSS	—61,040	—9,597,831	—896,719	—115,252	46,131	—26,100	—21,350	1,647
GAIN OR LOSS IN SURPLUS	2,503	144,703	—494,268	—143,828	146,131	—226,100	—784,126	—62,595
					—183,876	—632,688	57,621	—4,568
<i>Percentages</i>								
Losses incurred to premiums earned	42.79	15.67	51.15	57.86	55.32	53.79	30.56	43.42
Underwriting expenses incurred to premiums earned	40.34	12.88	36.37	45.93	56.67	60.00	1.12	34.16
Investment expenses incurred to interest and rents earned	3.73	4.68	6.74	3.78	5.34	4.63	7.68	7.22
Losses, expenses and dividends to income earned	97.99	92.76	86.01	112.69	117.02	119.07	79.59	102.75

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946*—Continued

	Merchants and Manufacturers (N. Y.)	Merchants Fire (N. Y.)	Merchants Fire (Cal.)	Mercury	Merrimack Mutual	Michigan Fire and Marine	Michigan Millers Mutual	Midlexex Mutual
<i>From Underwriting</i>								
Premiums earned	\$2,836,278	\$4,943,603	\$1,202,230	\$4,667,636	\$2,385,428	\$2,758,928	\$3,813,377	\$1,356,170
Profit and loss	1,005	3,383	2,126	1,096	1,743	5,464	12,253	574
Total underwriting income earned	2,835,273	4,947,186	1,200,104	4,668,732	2,387,171	2,753,464	3,801,124	1,356,744
Losses incurred	1,525,809	2,439,388	551,192	2,660,993	1,047,650	1,488,689	1,816,396	556,980
Expenses incurred	1,581,985	2,493,397	740,913	2,312,978	1,047,755	1,408,773	1,655,856	608,510
Total losses and expenses	3,107,794	5,402,985	1,292,105	4,973,971	2,095,405	2,897,462	3,472,252	1,163,490
UNDERWRITING GAIN OR LOSS	-272,521	-455,789	-92,001	-306,239	286,280	-143,998	328,872	193,254
<i>From Investments</i>								
Interest and rents earned	\$185,540	\$644,197	\$80,625	\$301,383	\$114,879	\$177,632	\$195,493	\$117,509
Profit on investments	337,454	321,180	-	20,740	44,716	51,300	13,430	30,670
Total investment income earned	523,194	965,377	80,625	322,123	159,595	228,932	208,923	148,179
Loss on investments	891,878	905,581	-	79,587	131,830	223,209	107,150	99,948
Expenses incurred	15,930	23,095	3,427	11,563	22,002	8,423	73,981	21,721
Total losses and expenses	907,808	928,676	3,427	91,150	153,832	231,632	181,131	121,669
INVESTMENT GAIN OR LOSS	-384,614	36,701	77,198	230,973	5,763	-2,700	27,792	26,510
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$100,000	\$2,165,000	\$16,000	\$200,000	\$7,000	\$120,000	-	-
Policyholders' dividends declared	-	-	-	-	363,367	-	\$742,073	\$222,191
Receipts from home office	-	-	-	-	-	-	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	-	97,949	2,500	-	-	-	-	-
Other gain or loss	-45,124	-129,328	70,499	-1,773	-22,483	-11,622	-54,667	-20,907
MISCELLANEOUS GAIN OR LOSS	-145,124	-2,196,379	65,999	-201,773	-392,850	-131,622	-796,740	-243,098
GAIN OR LOSS IN SURPLUS	-802,259	-2,613,467	51,196	-276,039	-98,807	-278,320	-440,076	-23,334
<i>Percentages</i>								
Losses incurred to premiums earned	53.80	49.75	45.85	57.01	43.92	53.96	47.63	41.07
Underwriting expenses incurred to premiums earned	55.78	59.54	61.63	49.55	43.92	51.06	43.43	44.72
Investment expenses incurred to interest and rents earned	8.59	3.59	4.25	3.84	19.15	4.74	37.85	18.48
Losses, expenses and dividends to income earned	122.54	143.70	102.41	105.50	103.00	108.94	109.61	100.16

\*Minus sign indicates loss in surplus.



TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Millers' Mutual (Ill.)	Millers' Mutual (Pa.)	Millers' Mutual (Texas)	Millers National	Mill Owners Mutual (Iowa)	Milwaukee Mechanics	Minneapolis Fire and Marine	Mutual Fire Assurance (Mass.)
<i>From Underwriting</i>								
Premiums earned	\$2,654,773	\$818,292	\$1,504,207	\$4,521,920	\$2,781,581	\$7,214,098	—	\$23,309
Profit and loss	—1,530	—1,978	—8,902	4,283	—11,600	—9,187	—	—62
Total underwriting income earned	2,653,243	816,314	1,495,305	4,526,203	2,769,981	7,204,911	—	23,247
Losses incurred	1,100,045	310,802	805,510	2,276,712	1,304,578	3,796,011	—	5,740
Expenses incurred	1,061,061	396,727	697,345	2,554,864	1,221,548	4,015,786	—	14,872
Total losses and expenses	2,161,880	707,529	1,502,855	4,831,576	2,526,126	7,811,797	—	20,612
UNDERWRITING GAIN OR LOSS	491,363	108,785	—7,550	—305,373	243,855	—606,886	—	2,635
<i>From Investments</i>								
Interest and rents earned	\$116,840	\$66,011	\$65,573	\$132,874	\$100,619	\$526,229	\$86,652	\$13,943
Profit on investments	28,184	23,792	4,250	79,519	38,130	292,111	11,809	—
Total investment income earned	145,024	89,803	69,823	212,393	138,749	818,340	98,461	13,943
Loss on investments	14,475	2,397	6,360	136,993	55,866	723,148	72,225	3,937
Expenses incurred	27,086	10,131	11,300	12,418	20,510	82,908	711	512
Total losses and expenses	41,561	12,528	17,860	149,411	76,376	806,056	72,936	4,449
INVESTMENT GAIN OR LOSS	103,463	77,275	51,963	62,982	62,373	12,284	25,525	9,494
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	—	—	—	—	\$320,000	\$40,000	—
Policyholders' dividends declared	\$526,494	\$143,192	\$282,137	\$198,077	\$424,025	—	—	\$18,001
Receipts from home office	—	—	—	—	—	—	—	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—82,200	—31,105	50,000	87,164	25,000	—	—	—
MISCELLANEOUS GAIN OR LOSS	—608,694	—174,297	—53,889	—100,073	—37,071	24,577	2,261	—6,381
GAIN OR LOSS IN SURPLUS	—13,868	11,763	—286,026	—210,986	—436,096	—295,423	—37,739	—24,382
				—453,377	—129,868	—890,025	—12,214	—12,253
<i>Percentages</i>								
Losses incurred to premiums earned	41.44	37.98	53.55	50.35	46.90	52.62	—	24.62
Underwriting expenses incurred to premiums earned	40.00	48.49	46.36	56.50	43.91	55.66	—	63.80
Investment expenses incurred to interest and rents earned	23.18	15.35	17.54	9.35	20.38	15.76	.82	3.67
Losses, expenses and dividends to income earned	97.56	95.27	115.19	109.29	104.05	111.40	114.70	115.79

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Mutual Fire (Maine)	Mutual Investment and Hardware	National (Conn.)	National- Ben Franklin	National Grange	National Liberty	National Retailer	National Union
<i>From Underwriting</i>								
Premiums earned	\$150,352	\$7,102,059	\$24,052,065	\$2,657,826	\$248,532	\$9,546,452	\$3,866,421	\$13,523,520
Profit and loss	742	—1,580	—47,323	—2,166	142	—74,022	—5,470	—119,742
Total underwriting income earned	151,094	7,100,479	24,004,742	2,655,660	248,674	9,471,830	3,860,951	13,403,778
Losses incurred	67,671	2,930,090	13,286,985	1,398,530	90,813	5,576,065	1,574,475	7,859,192
Expenses incurred	40,009	2,765,574	13,623,557	1,482,960	45,576	5,488,547	1,594,642	6,909,849
Total losses and expenses	107,680	5,695,664	26,910,542	2,881,490	136,389	11,064,612	3,169,117	14,769,041
UNDERWRITING GAIN OR LOSS	43,414	1,404,815	—2,905,800	—225,830	112,285	—1,592,782	691,834	—1,365,263
<i>From Investments</i>								
Interest and rents earned	\$7,573	\$228,858	\$1,476,254	\$187,382	\$16,904	\$870,044	\$117,029	\$665,433
Profit on investments	2,648	64,948	382,365	25,968	1,035	1,850,395	5,328	523,310
Total investment income earned	10,221	293,806	1,858,619	213,350	18,029	1,836,039	122,357	1,190,743
Loss on investments	2,524	7,000	1,073,447	320,323	5,434	2,198,582	48,164	795,656
Expenses incurred	2,596	46,123	176,356	26,821	923	31,783	22,982	94,247
Total losses and expenses	5,120	53,153	1,249,803	347,744	6,357	2,230,365	71,146	889,903
INVESTMENT GAIN OR LOSS	5,101	240,623	608,816	—134,394	11,672	—394,326	51,211	300,840
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	—	\$1,000,000	\$75,000	\$21,250	\$800,000	—	\$275,000
Policyholders' dividends declared	\$43,762	\$1,448,245	—	—	56,051	—	\$786,507	—
Receipts from home office	—	—	—	—	—	—	—	—
Remittances to home office	—	—	—	—	—	—	—	—
Special reserves	—	—	3,000,000	—	—	1,000,000	—	—
Other gain or loss	—6,832	6,478	—488,035	20,468	—5,139	104,089	—60,316	219,016
MISCELLANEOUS GAIN OR LOSS	—50,594	—1,441,767	1,511,965	—54,532	—113,563	504,089	—846,823	—1,358,376
GAIN OR LOSS IN SURPLUS	—2,079	203,671	—785,019	—414,756	10,394	—1,483,019	—103,778	—2,422,799
<i>Percentages</i>								
Losses incurred to premiums earned	45.01	41.26	55.24	52.62	36.54	58.41	40.72	58.11
Underwriting expenses incurred to premiums earned	26.61	38.94	56.65	55.80	18.34	57.50	41.24	51.09
Investment expenses incurred to interest and rents earned	34.27	20.15	11.95	14.31	5.43	3.62	19.64	14.16
Losses, expenses and dividends to income earned	97.59	97.33	112.75	115.17	82.51	122.88	101.09	109.18

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Netherlands (U. S. Branch)	Newark	New Brunswick	Newburyport Mutual	New England	New Hampshire	New York Fire	New York Underwriters
<i>From Underwriting</i>								
Premiums earned . . . . .	\$1,293,714	\$5,126,987	\$2,603,755	\$3,734	\$689,703	\$7,994,940	\$4,727,148	\$2,861,658
Profit and loss . . . . .	—14,222	—111,459	—11,942	—	—1,366	—22,250	—	—53,506
Total underwriting income earned . . . . .	1,279,492	5,015,528	2,591,813	3,734	688,337	7,972,690	4,726,029	2,808,152
Losses incurred . . . . .	774,139	2,917,502	1,558,592	466	370,416	4,739,460	2,542,765	1,592,350
Expenses incurred . . . . .	873,315	2,894,070	1,518,773	2,014	350,210	4,703,250	2,637,564	1,505,147
Total losses and expenses . . . . .	1,647,454	5,811,572	3,077,365	2,480	722,581	9,432,710	5,180,329	2,897,477
UNDERWRITING GAIN OR LOSS . . . . .	—367,962	—796,044	—485,552	1,254	—34,244	—1,460,020	—454,300	—89,325
<i>From Investments</i>								
Interest and rents earned . . . . .	\$49,186	\$345,623	\$214,113	\$2,449	\$94,552	\$748,829	\$316,897	\$295,073
Profit on investments . . . . .	2,075	488,866	317,305	705	29,964	27,057	93,837	21,040
Total investment income earned . . . . .	51,261	834,489	531,418	8,154	124,516	775,886	410,734	316,113
Loss on investments . . . . .	48,380	341,192	629,034	3,848	96,626	1,030,907	746,666	207,820
Expenses incurred . . . . .	6,372	15,649	11,605	93	5,136	37,433	23,409	15,509
Total losses and expenses . . . . .	54,752	356,841	640,639	3,941	101,762	1,068,340	770,075	223,329
INVESTMENT GAIN OR LOSS . . . . .	—3,491	477,648	—109,221	—787	22,754	—292,454	—359,341	92,784
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	—	\$350,000	\$150,000	—	\$50,000	\$600,000	\$160,000	\$100,000
Policyholders' dividends declared . . . . .	—	—	—	\$3,797	—	—	—	—
Receipts from home office . . . . .	\$597,572	—	—	—	—	—	—	—
Remittances to home office . . . . .	—96,945	—	—	—	—	—	—	—
Special reserves . . . . .	—	—	—	—	—	—	—	—
Other gain or loss . . . . .	—85,651	56,327	16,231	—	2,778	—18,069	—108,464	—38,042
MISCELLANEOUS GAIN OR LOSS . . . . .	414,976	—293,673	—133,769	—3,797	—47,227	—618,669	—268,464	—138,042
GAIN OR LOSS IN SURPLUS . . . . .	43,523	—612,069	—728,542	—3,330	—58,717	—2,371,143	—1,082,105	—134,583
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	59.53	56.90	59.47	12.48	53.96	59.16	53.79	55.64
Underwriting expenses incurred to premiums earned . . . . .	67.35	56.45	58.32	53.93	50.81	58.83	55.80	45.61
Investment expenses incurred to interest and rents earned . . . . .	13.18	4.53	5.42	3.80	5.43	5.00	7.39	5.26
Losses, expenses and dividends to income earned . . . . .	156.66	111.43	123.85	125.50	107.56	126.89	118.95	103.09

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Niagara	Norfolk and Dedham Mutual	North American Fire and Marine	North British and Mercantile (U. S. Branch)	Northern Assurance (U. S. Branch)	Northern (N. Y.)	North River	Northwestern Fire and Marine
<i>From Underwriting</i>								
Premiums earned	\$11,174,190	\$934,435	\$74,497	\$9,217,596	\$6,557,186	\$6,144,567	\$9,811,305	\$1,094,928
Profit and loss	—10,928	—535	—	49,416	—27,131	—1,377	—20,258	26,290
Total underwriting income earned	11,163,262	933,900	74,497	9,267,012	6,530,055	6,143,190	9,791,047	1,121,218
Losses incurred	5,740,998	489,822	48,029	5,153,893	3,704,463	3,293,108	4,767,877	621,690
Expenses incurred	6,909,770	488,968	42,206	5,241,653	3,515,544	3,650,059	5,172,257	449,680
Total losses and expenses	12,650,768	948,790	90,235	10,395,546	7,220,007	6,943,167	9,940,134	1,071,370
UNDERWRITING GAIN OR LOSS	—1,487,506	—14,890	—15,738	—1,128,534	—689,952	—799,977	—149,087	49,848
<i>From Investments</i>								
Interest and rents earned	\$1,491,499	\$72,456	\$48,000	\$499,618	\$355,080	\$396,665	\$1,039,263	\$115,195
Profit on investments	443,166	1,327	—	33,600	158,419	488,233	37,448	21,245
Total investment income earned	1,934,665	73,783	48,000	533,218	513,499	884,898	1,076,711	136,440
Loss on investments	4,402,768	52,209	7,597	431,737	300,663	1,232,950	1,416,214	94,668
Expenses incurred	48,078	10,186	3,415	22,438	108,838	18,939	38,911	16,632
Total losses and expenses	4,450,846	62,395	11,012	454,195	409,501	1,251,889	1,455,125	111,300
INVESTMENT GAIN OR LOSS	—2,515,681	11,388	36,988	79,023	43,998	—366,991	—378,414	25,140
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$900,000	—	—	—	—	\$320,000	\$800,000	\$100,000
Policyholders' dividends declared	—	\$154,919	—	—	—	—	—	—
Receipts from home office	—	—	—	\$41,270	\$4,804	—	—	—
Remittances to home office	—	—	—	—483,370	—43,203	—	—	—
Special reserves	—3,950,350	—	—	—	27,276	42,000	—	127,500
Other gain or loss	148,620	—2,942	—\$5,717	—27,928	—43,712	—79,055	—125,062	—42,280
MISCELLANEOUS GAIN OR LOSS	—4,701,730	—157,861	—5,717	—470,028	—54,835	—357,055	—925,062	—14,780
GAIN OR LOSS IN SURPLUS	—8,704,917	—161,363	15,533	—1,519,539	—700,789	—1,524,023	—1,452,563	60,208
<i>Percentages</i>								
Losses incurred to premiums earned	51.38	49.21	64.47	55.91	56.49	53.59	48.60	56.78
Underwriting expenses incurred to premiums earned	61.84	52.32	56.66	56.86	53.62	59.41	52.72	41.07
Investment expenses incurred to interest and rents earned	3.22	14.06	7.11	4.50	30.65	4.78	3.74	14.44
Losses, expenses and dividends to income earned	137.43	115.72	82.65	110.71	109.17	121.16	112.22	101.99

\*Minus sign indicates loss in surplus.



TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Northwestern Mutual	Northwestern National	Norwich Union (U. S. Branch)	Ocean Marine (U. S. Branch)	Ohio Farmers	Old Colony	Orient	Pacific Coast (U. S. Branch)
<i>From Underwriting</i>								
Premiums earned	\$10,221,432	\$6,121,917	\$4,318,257	\$465,021	\$4,569,457	\$3,311,462	\$2,490,035	\$536,303
Profit and loss	86,125	9,218	27,801	370	16,407	5,948	14,250	255
Total underwriting income earned	10,135,307	6,112,689	4,296,356	465,391	4,585,060	3,305,514	2,504,285	536,558
Losses incurred	4,202,871	2,786,796	2,527,529	199,714	2,368,231	1,912,995	1,388,384	279,175
Expenses incurred	4,770,552	3,963,213	2,390,331	116,551	2,704,306	2,105,364	1,296,285	309,317
Total losses and expenses	8,973,723	6,750,009	4,917,860	316,245	5,012,537	4,018,359	2,684,669	588,492
UNDERWRITING GAIN OR LOSS	1,161,584	-637,310	-627,404	149,146	-459,487	-712,845	-180,384	-51,934
<i>From Investments</i>								
Interest and rents earned	\$382,961	\$791,546	\$220,733	\$36,316	\$241,971	\$421,044	\$171,989	\$51,360
Profit on investments	80,361	73,877	31,186	67	77,571	123,203	-	68,090
Total investment income earned	463,322	865,423	251,919	36,383	319,542	544,247	171,989	119,450
Loss on investments	182,846	832,244	2,208	14	320,250	657,833	259,063	27,450
Expenses incurred	18,577	61,622	21,686	2,557	90,034	14,034	76,274	2,839
Total losses and expenses	201,423	893,866	23,894	2,571	410,284	671,867	335,337	30,289
INVESTMENT GAIN OR LOSS	261,899	-28,443	228,025	33,812	-90,742	-127,620	-163,348	89,161
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	\$400,000	-	-	-	\$350,000	\$50,000	-
Policyholders' dividends declared	\$1,806,946	-	-	-	-	-	-	-
Receipts from home office	-	-	\$505,692	-	-	-	-	-
Remittances to home office	-	-	-180,525	-	-	-	-	-
Special reserves	200,000	-	-	-	-	-	-	-
Other gain or loss	64,476	37,654	24,002	-74,910	-	79,449	-27,000	-
MISCELLANEOUS GAIN OR LOSS	-1,671,422	-362,346	349,169	-110,816	-346,149	-270,551	-263,435	-16,410
GAIN OR LOSS IN SURPLUS	-247,339	-1,028,999	-50,210	72,142	-896,378	-1,111,016	-607,167	11,977
<i>Percentages</i>								
Losses incurred to premiums earned	41.12	45.52	58.53	42.95	50.51	57.77	55.76	52.06
Underwriting expenses incurred to premiums earned	46.68	64.74	55.35	25.14	59.18	63.58	52.06	57.68
Investment expenses incurred to interest and rents earned	4.85	7.78	9.82	7.04	37.21	3.33	44.35	5.53
Losses, expenses and dividends to income earned	103.62	115.27	108.79	63.63	111.29	130.92	114.71	94.39

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Pacific Fire	Pacific National	Palatine (U. S. Branch)	Patriotic	Paul Revere	Pawtucket Mutual	Pennsylvania Lumbermens Mutual
<i>From Underwriting</i>							
Premiums earned . . . . .	\$4,346,167	\$5,002,202	\$1,228,570	\$1,448,379	\$1,568,147	\$1,412,777	\$2,573,971
Profit and loss . . . . .	—1,289	17,605	365	12,290	186	1,114	—24,394
Total underwriting income earned . . . . .	4,344,878	5,019,807	1,228,935	1,460,669	1,568,333	1,413,891	2,554,066
Losses Incurred . . . . .	2,202,659	2,460,675	695,122	873,112	922,158	590,920	3,218,616
Expenses incurred . . . . .	2,423,197	3,703,292	733,532	863,092	919,749	691,715	3,788,834
Total losses and expenses . . . . .	4,625,856	6,163,967	1,428,654	1,736,204	1,841,907	1,282,635	2,100,064
UNDERWRITING GAIN OR LOSS . . . . .	—280,978	—1,144,160	—199,719	—275,535	—273,574	131,256	484,002
<i>From Investments</i>							
Interest and rents earned . . . . .	\$250,846	\$410,821	\$117,426	\$122,184	\$167,638	\$84,858	\$109,951
Profit on investments . . . . .	267,440	1,060,630	8,008	10,350	156,357	2,085	16,633
Total investment income earned . . . . .	518,286	1,471,451	125,434	132,534	323,995	86,943	126,584
Loss on investments . . . . .	384,145	7,780	120,650	181,800	409,034	24,610	461,185
Expenses incurred . . . . .	10,446	39,359	6,461	8,768	5,511	9,635	23,331
Total losses and expenses . . . . .	394,591	47,139	127,111	190,566	414,545	34,245	20,965
INVESTMENT GAIN OR LOSS . . . . .	123,695	1,424,312	—1,677	—58,032	—90,539	52,698	105,619
<i>From Miscellaneous Sources</i>							
Stockholders' dividends declared . . . . .	\$200,000	—	—	—	\$120,000	—	—
Policyholders' dividends declared . . . . .	—	—	—	—	—	\$242,856	\$401,429
Receipts from home office . . . . .	—	—	\$4,714	—	—	—	—
Remittances to home office . . . . .	—	—	—115,963	—	—	—	—
Special reserves . . . . .	—	\$1,296,342	—	—	—	—	—
Other gain or loss . . . . .	—126,842	174,205	—10,857	—\$50,343	7,153	—27,361	411,932
MISCELLANEOUS GAIN OR LOSS . . . . .	—326,842	1,470,547	—122,106	—50,343	—112,847	—270,217	—64,861
GAIN OR LOSS IN SURPLUS . . . . .	—484,125	1,750,699	—323,502	—383,910	—476,971	—86,263	—114,358
							475,263
<i>Percentages</i>							
Losses incurred to premiums earned . . . . .	50.68	49.19	56.58	60.28	58.81	41.83	46.28
Underwriting expenses incurred to premiums earned . . . . .	55.75	74.04	59.71	59.59	58.65	48.96	35.31
Investment expenses incurred to interest and rents earned . . . . .	4.16	9.58	5.50	7.17	3.29	11.35	9.29
Losses, expenses and dividends to income earned . . . . .	107.35	95.68	114.87	120.94	125.58	103.92	95.27

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Pennsylvania Millers Mutual	Phenix Mutual	Philadelphia Fire and Marine	Philadelphia Manufacturers Mutual	Philadelphia National	Phoenix Assurance (U. S. Branch)	Phoenix (Conn.)	Piedmont
<i>From Underwriting</i>								
Premiums earned	\$1,539,307	\$166,367	\$8,016,584	\$1,478,141	\$827,921	\$4,677,613	\$15,243,220	\$2,893,540
Profit and loss	7	-6	-49,416	-941	879	-120,622	-81,429	5,384
Total underwriting income earned	1,539,314	166,361	7,967,168	1,477,200	828,800	4,556,991	15,161,791	2,887,606
Losses incurred	629,886	71,191	4,533,763	249,704	460,952	2,764,766	8,463,432	1,484,511
Expenses incurred	657,464	60,708	5,780,146	202,494	473,917	2,478,904	8,565,689	1,529,237
Total losses and expenses	1,287,350	131,899	10,313,909	452,198	934,869	5,243,670	17,029,101	3,013,808
UNDERWRITING GAIN OR LOSS	251,964	34,462	-2,346,741	1,025,002	-106,069	-686,679	-1,867,310	-126,202
<i>From Investments</i>								
Interest and rents earned	\$147,947	\$29,369	\$832,138	\$107,238	\$117,403	\$251,656	\$2,286,224	\$128,173
Profit on investments	4,314	2,296	27,732	11,743	82,699	226,229	339,224	17,290
Total investment income earned	152,261	31,665	859,870	118,981	200,102	477,885	2,620,448	145,463
Loss on investments	58,986	10,671	1,076,920	109,613	232,583	141,291	3,667,971	30,645
Expenses incurred	12,844	821	39,514	5,817	6,774	38,580	135,736	31,148
Total losses and expenses	71,830	11,492	1,116,434	115,430	239,357	179,871	3,803,707	61,793
INVESTMENT GAIN OR LOSS	80,431	20,173	-256,564	3,551	-38,655	298,014	-1,158,259	83,670
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	\$8,204	\$350,000	-	\$70,000	-	\$1,800,000	\$25,000
Policyholders' dividends declared	\$285,135	38,374	-	\$944,052	-	\$180,317	-	-
Receipts from home office	-	-	-	-	-	-173,848	-	-
Remittances to home office	-	-	-	-	-	-	-	-
Special reserves	20,000	-	13,828,086	-	-	-	3,500,000	-
Other gain or loss	-33,766	-3,747	-404,625	-37,201	-5,474	-87,942	179,223	8,219
MISCELLANEOUS GAIN OR LOSS	-298,961	-50,325	13,074,061	-981,253	-75,474	-81,473	1,879,223	-16,781
GAIN OR LOSS IN SURPLUS	33,494	4,310	10,470,756	47,300	-240,198	-470,138	-1,146,346	-59,313
<i>Percentages</i>								
Losses incurred to premiums earned	40.92	42.79	56.55	16.89	55.68	59.11	55.52	51.30
Underwriting expenses incurred to premiums earned	42.71	36.49	72.10	13.70	57.24	53.00	56.19	52.85
Investment expenses incurred to interest and rents earned	8.68	2.80	4.75	5.42	5.26	15.33	5.94	24.30
Losses, expenses and dividends to income earned	97.21	95.93	133.46	94.71	122.81	107.72	127.10	102.23

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Pioneer Mutual	Potomac	Protection Mutual	Providence Mutual	Providence Washington	Provident	Quaker City	Queen
<i>From Underwriting</i>								
Premiums earned . . . . .	\$129,657	\$3,539,293	\$1,999,136	\$174,007	\$11,189,927	\$1,572,957	\$1,019,443	\$13,181,449
Profit and loss . . . . .	259	-18,374	-5,294	16	-31,504	-251	-18,171	-63,420
Total underwriting income earned . . . . .	129,916	3,520,319	1,993,842	174,023	11,158,423	1,572,706	1,001,272	13,118,029
Losses incurred . . . . .	58,039	1,617,921	288,477	70,227	6,107,201	946,297	491,676	7,494,832
Expenses incurred . . . . .	75,706	2,652,012	374,444	105,646	5,858,053	893,014	685,910	7,491,551
Total losses and expenses . . . . .	133,805	4,269,933	662,921	175,873	11,965,254	1,839,311	1,177,586	14,986,383
UNDERWRITING GAIN OR LOSS . . . . .	-3,889	-749,614	1,330,921	-1,850	-806,831	-266,605	-176,314	-1,868,354
<i>From Investments</i>								
Interest and rents earned . . . . .	\$1,373	\$184,733	\$128,090	\$69,838	\$649,690	\$92,688	\$61,366	\$784,913
Profit on investments . . . . .	964	120,921	6,794	57,712	100,693	1,979	44,625	1,128,092
Total investment income earned . . . . .	2,337	305,654	134,884	127,550	750,383	94,667	105,991	1,913,005
Loss on investments . . . . .	-	174,216	161,732	114,820	717,803	118,198	89,131	626,532
Expenses incurred . . . . .	-	11,245	11,333	20,046	54,233	4,467	6,992	36,933
Total losses and expenses . . . . .	-	185,461	173,065	134,866	772,036	122,665	95,823	663,465
INVESTMENT GAIN OR LOSS . . . . .	2,337	120,193	-38,181	-7,316	-21,653	-27,998	10,168	1,249,540
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	-	-	-	-	\$420,000	-	\$40,000	\$800,000
Policyholders' dividends declared . . . . .	-	-	\$1,101,971	\$47,195	-	-	-	-
Receipts from home office . . . . .	-	-	-	-	-	-	-	-
Remittances to home office . . . . .	-	-	-	-	-	-	-	-
Special reserves . . . . .	-	-	-	-	-25,000	-	-	-
Other gain or loss . . . . .	\$1,463	\$57,600	-50,700	-1,566	-45,784	-14,125	-20,293	-81,062
MISCELLANEOUS GAIN OR LOSS . . . . .	1,463	57,600	-1,452,671	-48,761	-490,784	-14,125	-60,293	-81,062
GAIN OR LOSS IN SURPLUS . . . . .	-89	-571,821	140,969	-57,927	-1,319,268	-308,728	-226,439	-1,499,876
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	44.76	45.71	14.43	40.36	54.58	60.16	48.23	56.86
Underwriting expenses incurred to premiums earned . . . . .	57.12	74.93	18.73	60.72	52.35	56.77	67.29	56.83
Investment expenses incurred to interest and rents earned . . . . .	0	6.09	8.85	28.70	8.35	4.82	10.90	4.71
Losses, expenses and dividends to income earned . . . . .	99.50	116.45	91.04	118.69	110.48	117.67	108.79	109.44

\*Minus sign indicates loss in surplus.



TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Quincy Mutual	Reliance	Richmond	Rochester American	Royal (U. S. Branch)	Royal Exchange (U. S. Branch)	Safeguard	Salem Mutual
<i>From Underwriting</i>								
Premiums earned . . . . .	\$1,872,465	\$1,324,522	\$1,428,479	\$1,558,766	\$13,606,857	\$3,769,504	\$1,041,023	\$103,655
Profit and loss . . . . .	490	-3,181	-7,164	-3,543	-166,678	-1,936	29,134	2,910
Total underwriting income earned . . . . .	1,872,955	1,321,341	1,421,315	1,555,223	13,440,179	3,767,568	1,070,157	106,565
Losses incurred . . . . .	870,544	742,894	795,611	884,415	7,711,534	2,182,255	582,740	59,529
Expenses incurred . . . . .	868,198	756,900	921,593	817,383	7,852,819	2,112,038	540,056	23,187
Total losses and expenses . . . . .	1,738,742	1,499,794	1,717,204	1,701,798	15,564,353	4,294,293	1,122,796	82,686
UNDERWRITING GAIN OR LOSS . . . . .	134,213	-178,453	-295,889	-146,575	-2,124,174	-526,715	-52,639	23,879
<i>From Investments</i>								
Interest and rents earned . . . . .	\$185,268	\$174,450	\$219,183	\$221,851	\$705,894	\$178,554	\$112,215	\$4,825
Profit on investments . . . . .	138,744	198,676	60,811	16,625	947,041	1,151	10,425	-
Total investment income earned . . . . .	324,012	373,126	279,994	238,476	1,653,935	179,705	122,640	4,825
Loss on investments . . . . .	451,620	434,764	250,440	219,272	614,370	132,214	96,071	1,430
Expenses incurred . . . . .	25,852	16,152	13,422	7,746	100,068	8,076	5,025	299
Total losses and expenses . . . . .	477,472	450,916	263,862	227,018	714,438	140,290	101,096	1,729
INVESTMENT GAIN OR LOSS . . . . .	-153,460	-77,790	16,132	11,458	939,397	39,415	21,544	3,096
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared . . . . .	-	\$100,000	\$150,000	\$120,000	-	-	\$50,000	-
Policyholders' dividends declared . . . . .	\$358,232	-	-	-	\$140,127	\$7,474	-	\$23,401
Receipts from home office . . . . .	-	-	-	-	-344,685	-190,383	-	-
Remittances to home office . . . . .	-	-	-	-	-	-	-	-
Special reserves . . . . .	-	-	-	-	-	-	-	-
Other gain or loss . . . . .	-42,167	-15,281	-13,479	-4,487	-382,025	-55,368	-130,550	-453
MISCELLANEOUS GAIN OR LOSS . . . . .	-400,399	-115,281	-163,479	-124,487	-586,583	-238,277	-189,550	-23,854
GAIN OR LOSS IN SURPLUS . . . . .	-419,646	-371,524	-443,236	-259,604	-1,771,360	-725,577	-220,645	3,121
<i>Percentages</i>								
Losses incurred to premiums earned . . . . .	46.49	56.09	55.70	56.74	56.67	57.89	55.98	57.43
Underwriting expenses incurred to premiums earned . . . . .	46.37	57.14	64.52	52.44	57.71	56.03	51.88	22.34
Investment expenses incurred to interest and rents earned . . . . .	13.95	9.26	6.12	3.49	14.08	4.52	4.48	6.20
Losses, expenses and dividends to income earned . . . . .	117.18	121.02	125.26	114.22	100.77	112.35	106.80	96.79

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Scottish Union and National (U. S. Branch)	Sea (U. S. Branch)	Seaboard Fire and Marine	Seaboard (Md.)	Security	Sentinel	Springfield Fire and Marine	Standard (Conn.)
<i>From Underwriting</i>								
Premiums earned	\$4,485,966	\$2,869,533	\$1,560,663	\$628,990	\$8,109,919	\$688,693	\$23,454,974	\$3,392,367
Profit and loss	15,825	—14,884	2,407	—20,965	—110,795	—1,366	—68,938	—3,558
Total underwriting income earned	4,470,141	2,854,649	1,563,070	608,025	7,999,124	687,327	23,386,036	3,388,809
Losses incurred	2,579,086	1,527,037	903,670	356,322	4,885,495	371,372	12,655,794	1,544,330
Expenses incurred	2,382,864	1,136,673	900,428	352,152	4,475,651	350,570	11,980,840	2,002,978
Total losses and expenses	5,161,950	2,663,710	1,804,098	708,474	9,361,146	721,942	24,636,634	3,547,308
UNDERWRITING GAIN OR LOSS	—691,509	190,939	—241,028	—100,449	—1,362,022	—34,615	—1,250,598	—158,499
<i>From Investments</i>								
Interest and rents earned	\$258,001	\$105,702	\$81,862	\$43,708	\$469,078	\$100,884	\$1,285,597	\$228,196
Profit on investments	133,481	7,693	9,407	96,478	51,104	39,416	293,627	9,406
Total investment income earned	391,482	173,485	91,269	140,186	520,182	140,300	1,579,224	237,602
Loss on investments	39,284	43,309	92,052	24,385	1,201,371	122,470	2,055,651	284,500
Expenses incurred	33,384	11,639	6,129	5,787	64,190	4,234	72,118	18,035
Total losses and expenses	72,668	54,948	98,181	30,172	1,265,561	126,704	2,127,769	302,535
INVESTMENT GAIN OR LOSS	318,814	118,537	—6,912	110,014	—745,379	13,596	—548,545	—64,933
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	—	—	\$24,000	\$350,000	\$75,000	\$950,000	—
Policyholders' dividends declared	—	—	—	—	—	—	—	—
Receipts from home office	\$13,664	\$6,655	—	—	—	—	—	—
Remittances to home office	—274,594	—366,765	—	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—8,025	—247,980	\$1,846	—12,160	1,187,987	—11,487	5,575	\$283,281
MISCELLANEOUS GAIN OR LOSS	—269,555	—608,090	1,846	—24,017	—34,399	—31,487	—245,359	—13,301
GAIN OR LOSS IN SURPLUS	—642,250	—298,614	—246,094	—50,612	—1,303,813	—107,506	—2,988,927	46,548
<i>Percentages</i>								
Losses incurred to premiums earned	57.49	53.22	57.90	56.65	60.24	53.92	53.96	45.52
Underwriting expenses incurred to premiums earned	57.57	39.62	57.70	55.99	55.19	50.90	51.08	59.04
Investment expenses incurred to interest and rents earned	12.94	7.02	7.49	13.24	13.68	4.20	5.61	7.90
Losses, expenses and dividends to income earned	106.77	89.78	114.99	101.93	128.85	111.60	111.01	106.16

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	Standard (N. J.)	Standard (N. Y.)	Standard Marine (U. S. Branch)	St. Paul Fire and Marine	Star	State Assurance (U. S. Branch)	Sun (U. S. Branch)	Sun Underwriters
<i>From Underwriting</i>								
Premiums earned	\$1,159,967	\$5,722,351	\$3,068,368	\$23,255,852	\$3,804,588	\$775,835	\$5,648,343	\$940,972
Profit and loss	-4,842	-5,291	948	-304,747	-49,042	67	39,250	-3,803
Total underwriting income earned	1,155,125	5,717,060	3,069,316	22,951,105	3,755,546	775,902	5,579,093	937,169
Losses incurred	596,112	3,472,428	1,468,692	13,027,326	2,169,907	448,977	3,352,108	620,778
Expenses incurred	645,608	3,109,328	1,657,372	10,969,806	2,169,032	420,181	3,054,300	540,311
Total losses and expenses	1,241,720	6,581,756	3,126,064	23,997,132	4,338,033	868,258	6,446,408	1,161,089
UNDERWRITING GAIN OR LOSS	-86,595	-864,696	-56,748	-1,046,027	-582,493	-92,356	-867,315	-223,920
<i>From Investments</i>								
Interest and rents earned								
Profit on investments	\$119,471	\$218,299	\$166,373	\$2,651,994	\$109,953	\$49,937	\$219,477	\$62,225
Total investment income earned	39,841	21,637	7,636	312,040	282,315	11,371	104,633	9,858
Loss on investments	159,312	239,956	174,009	2,964,034	482,268	61,308	324,110	72,083
Expenses incurred	159,340	60,133	61,434	1,269,566	175,984	36,803	198,965	56,474
Total losses and expenses	10,364	10,591	8,263	158,225	16,221	1,983	28,717	5,473
INVESTMENT GAIN OR LOSS	169,704	79,724	69,637	1,447,791	192,205	38,786	227,682	61,947
	-10,392	169,232	104,372	1,516,243	290,063	22,522	96,428	10,136
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	\$96,000	\$90,000	-	\$1,600,000	\$175,000	-	-	-
Policyholders' dividends declared	-	-	-	-	-	-	-	-
Receipts from home office	-	-	\$83,151	-	-	-	\$460,811	-
Remittances to home office	-	-	-269,547	-	-	-	-231,584	-
Special reserves	30,357	-	-	-	-	-	-	-
Other gain or loss	-8,771	-95,853	-103,549	15,917	-52,229	-7,092	-11,227	-
MISCELLANEOUS GAIN OR LOSS	-74,414	-185,853	-289,945	-1,584,983	-227,229	-9,731	218,000	\$-17,416
GAIN OR LOSS IN SURPLUS	-171,401	-881,317	-242,321	-1,113,867	-519,659	-79,565	-552,887	-23,200
<i>Percentages</i>								
Losses incurred to premiums earned	51.39	60.68	47.87	56.02	57.01	57.75	60.05	65.97
Underwriting expenses incurred to premiums earned	55.65	54.33	54.01	47.17	57.01	54.16	54.07	57.42
Investment expenses incurred to interest and rents earned								
Losses, expenses and dividends to income earned	8.68	4.85	4.93	5.97	8.11	3.97	13.08	8.79
	114.68	113.19	98.53	104.36	111.63	108.34	113.06	121.18

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Surety Fire	"Switzerland" General (U. S. Branch)	Thames and Mersey (U. S. Branch)	Traders and Mechanics	Transcontinental	Travelers	Union Assurance (U. S. Branch)	Union of Canton (U. S. Branch)
<i>From Underwriting</i>								
Premiums earned	\$514,941	\$1,707,710	\$1,215,547	\$802,999	\$803,721	\$20,943,809	\$1,228,570	\$2,780,929
Profit and loss	-27,008	-13,090	-10,439	81	-3,223	-99,292	-10,815	-2,897
Total underwriting income earned	487,933	1,694,620	1,205,108	803,080	800,498	20,844,517	1,217,755	2,778,032
Losses incurred	415,352	1,058,975	683,649	380,683	464,435	10,813,921	695,122	1,599,921
Expenses incurred	412,322	834,496	531,791	371,381	459,872	13,766,095	734,281	1,355,529
Total losses and expenses	827,674	1,893,471	1,215,440	752,064	924,307	24,580,016	1,429,403	2,945,450
UNDERWRITING GAIN OR LOSS	-339,741	-198,851	-10,332	51,016	-123,809	-3,735,499	-211,648	-167,418
<i>From Investments</i>								
Interest and rents earned	\$25,292	\$66,683	\$82,300	\$45,618	\$117,709	\$767,221	\$84,771	\$127,621
Profit on investments	51	2,587	98,854	3,820	5,186	76,186	6,965	25,560
Total investment income earned	25,343	69,270	181,154	49,438	122,895	843,407	91,736	153,181
Loss on investments	916	27,622	59,919	28,601	283,843	346,935	56,712	144,183
Expenses incurred	1,936	3,855	4,262	5,823	5,369	16,766	5,178	8,605
Total losses and expenses	2,852	31,477	64,181	34,424	289,212	363,701	61,890	152,788
INVESTMENT GAIN OR LOSS	22,491	37,793	116,973	15,014	-166,317	479,706	29,846	393
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	-	-	-	-	-	\$80,000	-	-
Policyholders' dividends declared	-	-	-	\$125,489	-	-	-	-
Receipts from home office	-	\$297,375	\$8,821	-	-	-	\$745	\$516,326
Reimbursements to home office	-	-72,903	-131,336	-	-	-	-86,156	-460,686
Special reserves	-	-	-	-	\$100,000	6,238,648	-	-
Other gain or loss	-895	11,452	-27,468	-13,339	-10,747	115,131	-10,639	-56,968
MISCELLANEOUS GAIN OR LOSS	-95	236,124	-109,983	-138,828	-89,253	6,273,779	-96,050	-1,328
GAIN OR LOSS IN SURPLUS	-317,345	75,066	-3,342	-72,798	-200,873	3,017,986	-277,852	-168,353
<i>Percentages</i>								
Losses incurred to premiums earned	80.66	62.01	56.24	47.41	57.79	51.63	56.58	57.17
Underwriting expenses incurred to premiums earned	80.07	48.87	43.75	46.25	57.22	65.73	59.77	48.74
Investment expenses incurred to interest and rents earned		5.78	5.08	12.76	4.56	2.19	6.11	6.74
Losses, expenses and dividends to income earned	161.81	109.13	90.94	106.97	131.42	115.38	113.88	105.70

\*Minus sign indicates loss in surplus.



TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Union Marine (U. S. Branch)	Union Mutual	United Firemen's	United Mutual	United States Fire	Universal	Utica	Vermont Mutual
<i>From Underwriting</i>								
Premiums earned	\$1,475,995	\$969,638	\$2,131,813	\$7,662,259	\$15,977,796	\$1,478,087	\$275,268	\$654,270
Profit and loss	—46,842	61	2,065,096	43,797	—70,417	—8,730	343	1,064
Total underwriting income earned	1,429,153	969,699	2,065,787	7,616,462	15,907,379	1,469,357	275,611	655,334
Losses incurred	893,975	452,438	1,278,063	3,474,251	7,630,042	812,432	140,895	250,951
Expenses incurred	702,432	341,540	1,343,782	2,445,856	8,696,103	691,541	124,990	307,241
Total losses and expenses	1,596,407	793,978	2,622,445	5,920,107	16,326,145	1,503,973	265,885	558,192
UNDERWRITING GAIN OR LOSS	—167,254	169,721	—556,658	1,696,355	—418,766	—34,616	9,726	97,142
<i>From Investments</i>								
Interest and rents earned	\$113,273	\$31,268	\$143,236	\$290,238	\$1,482,562	\$91,425	\$13,630	\$33,562
Profit on investments	132,805	73,082	223,674	17,826	56,841	17,399	3,544	15,654
Total investment income earned	246,078	104,350	366,910	308,064	1,539,403	108,824	17,174	49,216
Loss on investments	100,467	152,859	103,257	133,388	1,553,689	92,616	25,526	1,832
Expenses incurred	12,652	4,334	12,797	15,328	56,788	3,895	2,997	3,038
Total losses and expenses	113,119	157,193	116,054	148,716	1,610,477	96,511	28,523	6,890
INVESTMENT GAIN OR LOSS	132,959	—49,843	250,856	159,348	—71,074	12,313	—11,349	42,326
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	—	—	\$100,000	—	\$1,000,000	\$50,000	—	—
Policyholders' dividends declared	—	\$305,760	—	\$1,673,846	—	—	—	\$112,161
Receipts from home office	\$101,088	—	—	—	—	—	—	—
Remittances to home office	—186,028	—	—	—	—	—	—	—
Special reserves	—	—	—	—	—	—	—	—
Other gain or loss	—21,738	—6,989	56,995	19,124	—63,865	—	\$21,250	15,177
MISCELLANEOUS GAIN OR LOSS	—106,678	—312,749	—43,005	—1,654,722	—1,063,865	—78,337	—3,282	—14,838
GAIN OR LOSS IN SURPLUS	—140,973	—192,871	—348,807	200,981	—1,553,705	—150,640	17,968	—111,822
							16,345	27,646
<i>Percentages</i>								
Losses incurred to premiums earned	60.57	46.66	59.98	45.34	47.75	54.97	51.18	38.36
Underwriting expenses incurred to premiums earned	47.59	33.84	63.03	31.92	54.42	40.79	45.40	46.96
Investment expenses incurred to interest and rents earned	11.17	12.65	8.93	5.28	3.83	4.26	21.99	15.07
Losses, expenses and dividends to income earned	103.47	117.26	116.68	97.71	108.54	104.58	100.55	96.12

\*Minus sign indicates loss in surplus.

TABLE 11.—Showing Sources of Gain or Loss\* in Surplus during 1946—Continued

	Vigilant	Virginia Fire and Marine	Washington Assurance	Westchester	Western Assurance (U. S. Branch)	Western National	What Cheer Mutual	Worcester Mutual
<i>From Underwriting</i>								
Premiums earned	\$1,502,606	\$1,579,679	\$320,568	\$9,866,923	\$2,235,649	\$2,464,008	\$1,929,762	\$1,046,806
Profit and loss	.	—2,054	1,194	33,627	11,820	—10,285	—2,377	264
Total underwriting income earned	.	1,497,312	321,762	9,900,550	2,247,469	2,453,723	1,927,385	1,047,070
Losses incurred	.	810,855	168,712	5,043,318	1,221,935	1,454,706	296,496	158,847
Expenses incurred	.	80,501	970,065	5,027,877	1,184,529	1,123,983	423,188	322,588
Total losses and expenses	.	1,391,356	375,013	10,071,195	2,406,464	2,578,689	719,684	841,435
UNDERWRITING GAIN OR LOSS	.	107,956	—53,251	—170,645	—158,995	—124,966	1,207,701	205,635
<i>From Investments</i>								
Interest and rents earned	.	\$80,132	\$83,763	\$838,958	\$132,859	\$218,225	\$130,795	\$146,465
Profit on investments	.	9,966	40,922	31,940	—	100,220	23,252	8,682
Total investment income earned	.	90,098	124,685	870,898	132,859	318,445	154,047	155,147
Loss on investments	.	1,418	16,644	1,178,357	52,252	42,375	117,586	32,338
Expenses incurred	.	5,989	3,321	40,915	7,355	9,485	16,057	16,421
Total losses and expenses	.	7,407	19,965	1,219,272	59,607	431,860	123,643	48,750
INVESTMENT GAIN OR LOSS	.	82,691	104,720	—348,374	73,252	—133,415	30,404	106,388
<i>From Miscellaneous Sources</i>								
Stockholders' dividends declared	.	\$40,000	—	\$640,000	—	\$120,000	—	—
Policyholders' dividends declared	.	—	—	—	—	—	\$1,169,999	\$279,775
Receipts from home office	.	—	—	—	—	—	—	—
Remittances to home office	.	—	—	—	—	—	—	—
Special reserves	.	—	—	—	—	—	—	—
Other gain or loss	.	—1,034	—\$11,870	33,588	—46,070	—11,587	—26,815	—42,298
MISCELLANEOUS GAIN OR LOSS	.	—41,034	—11,870	—606,412	—73,960	78,923	—1,196,814	—322,073
GAIN OR LOSS IN SURPLUS	.	—421,717	39,599	—1,125,431	—159,703	—179,458	41,291	—10,050
<i>Percentages</i>								
Losses incurred to premiums earned	.	53.96	52.63	51.11	54.66	59.04	15.36	49.56
Underwriting expenses incurred to premiums earned	.	38.63	64.35	50.96	52.98	45.61	21.93	30.82
Investment expenses incurred to interest and rents earned	.	7.47	3.96	4.88	5.54	4.35	4.63	11.21
Losses, expenses and dividends to income earned	.	88.01	88.47	110.76	96.53	113.65	96.73	97.32

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Continued*

	World Fire and Marine	Yorkshire (U. S. Branch)	Zurich
<i>From Underwriting</i>			
Premiums earned . . . . .	\$3,314,821	\$2,256,284	\$893,442
Profit and loss . . . . .	—16,302	—700	2,915
Total underwriting income earned . . . . .	3,298,519	2,255,584	896,357
Losses incurred . . . . .	1,696,693	1,389,509	505,258
Expenses incurred . . . . .	1,672,886	1,376,212	493,926
Total losses and expenses . . . . .	3,369,579	2,765,721	999,184
UNDERWRITING GAIN OR LOSS . . . . .	—71,060	—510,137	—102,827
<i>From Investments</i>			
Interest and rents earned . . . . .	\$208,129	\$104,764	\$60,338
Profit on investments . . . . .	820	65,183	2,142
Total investment income earned . . . . .	208,949	169,947	62,480
Loss on investments . . . . .	48,471	576,426	14,225
Expenses incurred . . . . .	12,853	9,663	3,909
Total losses and expenses . . . . .	61,324	586,089	18,134
INVESTMENT GAIN OR LOSS . . . . .	147,625	—416,142	44,346
<i>From Miscellaneous Sources</i>			
Stockholders' dividends declared . . . . .	\$100,000	—	—
Policyholders' dividends declared . . . . .	—	—	—
Receipts from home office . . . . .	—	—	—
Remittances to home office . . . . .	—	—	—
Special reserves . . . . .	—	—\$8,598	—
Other gain or loss . . . . .	—10,000	—	—
MISCELLANEOUS GAIN OR LOSS . . . . .	109,068	503,859	—
Total losses and expenses . . . . .	—932	495,261	—
MISCELLANEOUS GAIN OR LOSS IN SURPLUS . . . . .	75,633	—431,018	—\$58,481
<i>Percentages</i>			
Losses incurred to premiums earned . . . . .	51.19	61.58	56.55
Underwriting expenses incurred to premiums earned . . . . .	50.46	61.00	55.28
Investment expenses incurred to interest and rents earned . . . . .	6.18	9.22	6.48
Losses, expenses and dividends to income earned . . . . .	100.67	138.19	106.10

\*Minus sign indicates loss in surplus.

TABLE 11.—*Showing Sources of Gain or Loss\* in Surplus during 1946—Concluded*

RECAPITULATION	Massachusetts Mutual Companies other than Manufacturers' (27 Companies)	Other State Mutual Companies Other than Manufacturers' (29 Companies)	Massachusetts Manufacturers' Mutuals (6 Companies)	Massachusetts Stock Companies (7 Companies)	Stock Companies (157 Companies)	United States Branches, Companies of Other Countries (38 Companies)	Totals (267 Companies)
<i>From Underwriting</i>							
Premiums earned	\$25,949,631	\$85,450,524	\$14,559,665	\$29,644,169	\$1,016,470,662	\$127,219,790	\$1,342,101,634
Profit and loss	—61,748	56,182	33,801	—20,219	—4,516,053	—746,590	—5,381,592
Total underwriting income earned	25,887,883	85,506,706	14,593,466	29,623,950	1,011,954,609	126,473,200	1,336,720,042
Losses incurred	11,881,694	37,701,257	3,419,254	4,871,683	549,911,970	71,354,340	702,953,371
Expenses incurred	9,977,071	35,782,068	2,013,597	4,816,190	545,877,470	68,571,080	689,667,139
Total losses and expenses	21,858,765	73,483,325	5,332,851	9,687,873	1,095,789,440	139,925,420	1,392,620,510
UNDERWRITING GAIN OR LOSS	4,029,118	12,023,381	9,260,615	19,936,077	83,834,831	13,452,220	55,900,468
<i>From Investments</i>							
Interest and rents earned	\$1,587,089	\$4,213,717	\$1,113,336	\$2,057,802	\$87,997,835	\$7,118,704	\$107,431,626
Profit on investments	331,369	1,553,093	107,967	1,198,329	35,253,719	3,514,966	43,155,774
Total investment income earned	1,918,458	5,802,810	1,221,303	3,256,131	123,251,554	10,633,670	150,587,400
Loss on investments	1,315,399	2,863,688	910,303	2,977,977	5,565,927	6,112,263	169,279,754
Expenses incurred	211,884	1,054,235	63,716	108,722	8,313,607	805,237	10,794,489
Total losses and expenses	1,527,283	3,917,923	974,619	3,086,699	157,847,204	6,917,500	180,074,243
INVESTMENT GAIN OR LOSS	391,175	1,884,887	246,684	169,432	34,595,650	3,716,170	29,486,843
<i>From Miscellaneous Sources</i>							
Stockholders' dividends declared	\$21,000	\$18,314	—	—	\$55,440,357	—	\$57,739,671
Policyholders' dividends declared	4,967,723	15,731,819	\$9,275,723	\$17,808,622	897,710	—	48,681,597
Receipts from home office	—	—	—	—	—	\$4,252,681	4,252,681
Remittances to home office	—	—	—	—	—	7,854,794	7,854,794
Special reserves	19,265	1,028,467	419,989	700,000	61,531,106	21,474	67,209,903
Other gain or loss	210,372	1,258,680	232,103	—1,326,263	10,191,477	2,140,444	15,865,059
MISCELLANEOUS GAIN OR LOSS	5,179,830	15,980,355	9,087,837	18,434,885	4,998,839	5,767,031	58,678,537
GAIN OR LOSS IN SURPLUS	759,537	2,072,087	419,462	1,670,624	123,428,919	15,503,081	144,065,848
<i>Percentages</i>							
Losses incurred to premiums earned	45.79	44.12	22.80	16.43	54.10	56.09	52.38
Underwriting expenses incurred to premiums earned	38.45	41.87	13.83	16.25	53.70	53.90	51.39
Investment expenses incurred to interest and rents earned	13.35	25.02	5.72	5.28	9.45	11.31	10.05
Losses, expenses and dividends to income earned	102.04	102.02	98.54	93.01	115.40	107.10	112.90

\*Minus sign indicates loss in surplus.



**The Commonwealth of Massachusetts**

**REPORT ON FIRES**

**Compiled by**

**THE DEPARTMENT OF PUBLIC SAFETY**

**DIVISION OF FIRE PREVENTION**

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**For the Year Ending December 31, 1946**

# Report of Division of Fire Prevention

DEPARTMENT OF PUBLIC SAFETY  
BOSTON, NOVEMBER 1, 1947

*Commissioner of Insurance, 100 Nashua Street, Boston.*

I have the honor to submit in compliance with the provisions of section 7, chapter 148 of the General Laws, the forty-third annual report of this office on fires reported during the year ending December 31, 1946, as follows:

## STATE, INCLUDING THE CITY OF BOSTON

The total number of fires reported throughout the State during the year 1946 was 10,034; of these 6,376 were in frame buildings, 2,272 in brick, stone or cement buildings, and 1,386 other than building fires.

Sound valuation of the property damaged by fire . . . . .	\$328,470,457 00
Amount of insurance at risk thereon . . . . .	380,921,922 00
Total loss thereon . . . . .	17,294,928 62
Total insurance loss thereon . . . . .	14,858,475 50
There were 145 fires of incendiary origin, or 1.41 per cent.	
Total loss thereon . . . . .	479,541 38
There were 321 fires of unknown origin, or 3.10 per cent.	
Total loss thereon . . . . .	2,939,466 74

## STATE, NOT INCLUDING THE CITY OF BOSTON

The total number of fires reported in the State, not including the City of Boston, during the year 1946 was 7,010; of these 5,302 were in frame buildings, 1,056 in brick, stone or cement buildings, and 652 other than building fires.

Sound valuation of the property damaged by fire . . . . .	\$190,394,281 00
Amount of insurance at risk thereon . . . . .	224,017,177 00
Total loss thereon . . . . .	12,917,802 03
Total insurance loss thereon . . . . .	10,932,668 41
There were 123 fires of incendiary origin, or 1.23 per cent.	
Total loss thereon . . . . .	255,817 45
There were 236 fires of unknown origin, or 2.35 per cent.	
Total loss thereon . . . . .	2,284,023 95

## CITY OF BOSTON

The total number of fires reported in the City of Boston during the year 1946 was 3,024; of these 1,074 were in frame buildings, 1,216 were in brick, stone or cement buildings, and 734 other than building fires.

Sound valuation of the property damaged by fire . . . . .	\$138,076,176 00
Amount of insurance at risk thereon . . . . .	156,904,745 00
Total loss thereon . . . . .	4,377,126 59
Total insurance loss thereon . . . . .	3,925,807 09

## IN GENERAL

There were 10,034 fires reported during the year 1946, which is an increase of 1,118 over the total for 1945. The amount of loss increased \$2,214,930.

Of the total number of fires in 1946, 62% occurred in residential buildings. Also, 81% of the fatal fires occurred in residential buildings.

There were 71 fires which caused 109 deaths, including 55 men, 28 women and 26 children, which was an increase of 12 deaths over 1945.

During the year, 83 arrests were made for incendiarism, which resulted in 73 convictions. There were 2 "not guilty" verdicts and 8 cases were dismissed.

EDWARD H. WHITTEMORE,  
*State Fire Marshal.*

## STATISTICS OF FIRES IN MASSACHUSETTS IN 1946.

The following table shows the number of fires occurring in the cities and towns of the Commonwealth, the character of the buildings in which they originated (whether brick, stone, cement or frame), and the total valuation, total insurance at risk, total loss, and total insurance loss during the year:—

TABLE NO. 1.—*Showing Number of Fires, Character of Building, Loss, etc.*

CITY OR TOWN	NUMBER OF FIRES				BUILDINGS AND CONTENTS.			
	Total.	Frame or stucco.	Brick, stone or cement.	Other than building fires.	Total Valuation	Total Insurance.	Total Loss.	Total Insurance Loss.
Abington . . . . .	17	12	-	5	\$647,725	\$801,600	\$47,428 01	\$45,608 00
Acton . . . . .	-	-	-	-	-	-	-	-
Acushnet . . . . .	6	6	-	-	12,110	10,900	4,000 00	2,315 00
Adams . . . . .	9	7	2	-	82,158	138,658	92,329 74	92,329 74
Agawam . . . . .	9	9	-	-	77,000	78,000	20,571 00	10,019 50
Alford . . . . .	-	-	-	-	-	-	-	-
Amesbury . . . . .	10	10	-	-	28,962	38,300	7,747 98	7,260 14
Amherst . . . . .	6	5	1	-	69,250	97,950	11,152 61	10,535 61
Andover . . . . .	7	6	1	-	19,835	45,250	8,942 00	5,068 00
Arlington . . . . .	68	57	11	-	719,847	745,607	104,728 98	104,278 98
Ashburnham . . . . .	12	9	3	-	31,575	848,100	11,282 82	9,407 82
Ashby . . . . .	4	3	-	1	20,590	22,500	3,565 00	2,302 00
Ashfield . . . . .	-	-	-	-	-	-	-	-
Ashland . . . . .	5	5	-	-	18,990	14,300	10,450 00	5,725 00
Athol . . . . .	18	17	1	-	234,975	210,800	37,384 76	28,309 76
ATTLEBORO . . . . .	33	29	4	-	400,805	517,278	54,690 52	52,815 52
Auburn . . . . .	6	6	-	-	12,000	1,600	7,325 00	750 00
Avon . . . . .	-	-	-	-	-	-	-	-
Ayer . . . . .	8	7	1	-	51,500	149,700	16,010 00	14,251 43
Barnstable . . . . .	16	15	1	-	78,580	99,000	34,512 73	32,470 44
Barre . . . . .	-	-	-	-	-	-	-	-
Becket . . . . .	1	1	-	-	3,500	3,500	3,000 00	3,000 00
Bedford . . . . .	-	-	-	-	-	-	-	-
Belchertown . . . . .	4	4	-	-	7,700	14,700	7,302 00	6,177 00
Bellingham . . . . .	8	6	2	-	93,300	56,160	57,717 43	39,246 39
Belmont . . . . .	24	21	3	-	230,800	252,000	28,150 84	8,150 84
Berkley . . . . .	-	-	-	-	-	-	-	-
Berlin . . . . .	2	2	-	-	39,200	13,600	34,200 00	13,600 00
Bernardston . . . . .	5	5	-	-	7,875	18,400	1,225 00	876 60
BERVERLY . . . . .	61	55	4	2	708,060	506,735	65,005 70	62,260 90
Billerica . . . . .	27	25	1	1	62,702	157,102	18,885 33	13,704 33
Blackstone . . . . .	1	1	-	-	1,800	1,600	1,600 00	1,200 00
Blandford . . . . .	2	2	-	-	5,800	1,200	3,800 00	561 00
Bolton . . . . .	1	-	1	-	15,000	26,500	19,800 00	17,800 00
BOSTON . . . . .	3,024	1,074	1,216	734	138,076,176	156,904,745	4,377,126 59	3,925,807 09
Bourne . . . . .	13	12	1	-	55,100	76,500	24,302 85	22,552 85
Boxborough . . . . .	-	-	-	-	-	-	-	-
Boxford . . . . .	3	3	-	-	5,150	7,000	10,100 00	7,000 00
Boylston . . . . .	-	-	-	-	-	-	-	-
Braintree . . . . .	61	42	9	10	615,700	472,775	59,903 92	53,736 92
Brewster . . . . .	8	5	-	3	12,700	18,040	4,706 00	1,541 80
Bridgewater . . . . .	28	26	-	2	69,635	104,550	31,537 05	39,412 05
Brimfield . . . . .	-	-	-	-	-	-	-	-
BROCKTON . . . . .	263	231	26	6	5,020,079	6,189,304	187,302 20	177,425 50
Brookfield . . . . .	-	-	-	-	-	-	-	-
Brookline . . . . .	57	27	30	-	1,507,990	2,000,890	308,095 37	308,095 37
Buckland . . . . .	-	-	-	-	-	-	-	-
Burlington . . . . .	4	4	-	-	19,500	11,000	6,584 94	3,499 94
CAMBRIDGE . . . . .	114	78	32	4	3,734,163	3,215,409	358,313 25	306,268 38
Canton . . . . .	7	7	-	-	49,950	67,850	8,027 00	6,305 50
Carlisle . . . . .	-	-	-	-	-	-	-	-
Carver . . . . .	2	2	-	-	12,000	7,000	3,435 00	2,400 00
Charlemont . . . . .	1	1	-	-	1,700	-	1,600 00	-
Charlton . . . . .	3	3	-	-	5,200	1,000	4,325 00	825 00
Chatham . . . . .	10	8	1	1	123,725	107,025	4,865 25	3,465 25
Chelmsford . . . . .	14	14	-	-	35,400	50,805	28,193 17	24,343 00
CHELSEA . . . . .	106	65	41	-	1,740,950	1,925,350	155,833 13	144,082 13
Cheshire . . . . .	3	3	-	-	7,100	1,000	2,362 92	1,000 00
Chester . . . . .	2	2	-	-	6,200	5,500	2,204 00	2,204 00
Chesterfield . . . . .	2	2	-	-	6,050	2,000	6,962 80	1,512 80
CHICOPEE . . . . .	154	87	28	39	35,060,257	34,685,073	137,022 54	99,721 33
Chilmark . . . . .	-	-	-	-	-	-	-	-
Clarksburg . . . . .	1	1	-	-	3,000	-	700 00	-
Clinton . . . . .	17	13	4	-	426,475	518,600	38,741 11	36,444 11
Cohasset . . . . .	12	12	-	-	170,450	191,000	56,757 52	54,757 52



TABLE NO. 1.—Showing Number of Fires, etc.—Continued.

CITY OR TOWN	NUMBER OF FIRES				BUILDINGS AND CONTENTS.			
	Total.	Frame or stucco.	Brick, stone or cement.	Other than building fires.	Total Valuation.	Total Insurance.	Total Loss.	Total Insurance Loss.
Colrain . . . . .	7	6	—	1	\$29,050	\$20,500	\$23,984 75	\$6,638 75
Concord . . . . .	9	8	1	—	152,800	98,600	88,315 00	11,962 19
Conway . . . . .	1	1	—	—	23,000	11,000	11,000 00	3,995 50
Cummington . . . . .	2	2	—	—	11,000	5,000	7,450 00	5,000 00
Dalton . . . . .	4	3	1	—	150,072	89,100	18,212 64	17,912 64
Danvers . . . . .	—	—	—	—	—	—	—	—
Dartmouth . . . . .	4	3	1	—	76,300	40,700	88,115 50	39,565 50
Dedham . . . . .	13	10	3	—	178,700	153,100	56,276 89	48,326 89
Deerfield . . . . .	2	2	—	—	8,000	17,000	16,548 20	16,528 48
Dennis . . . . .	4	4	—	—	20,500	15,750	13,423 88	11,918 88
Dighton . . . . .	2	2	—	—	7,250	3,600	1,252 00	952 00
Douglas . . . . .	1	1	—	—	6,000	2,000	9,000 00	2,000 00
Dover . . . . .	3	3	—	—	19,204	23,741	23,348 00	23,210 00
Dracut . . . . .	15	14	—	1	29,965	43,015	20,419 15	19,294 15
Dudley . . . . .	8	4	2	2	913,950	48,950	7,817 90	7,817 90
Dunstable . . . . .	1	1	—	—	200	—	200 00	—
Duxbury . . . . .	4	4	—	—	25,700	26,300	5,486 75	4,891 75
East Bridgewater . . . . .	—	—	—	—	—	—	—	—
East Brookfield . . . . .	—	—	—	—	—	—	—	—
East Longmeadow . . . . .	9	9	—	—	24,875	41,700	6,096 47	5,971 47
Eastham . . . . .	—	—	—	—	—	—	—	—
Easthampton . . . . .	22	12	4	6	285,589	627,885	11,230 43	6,935 43
Easton . . . . .	16	10	1	5	37,953	48,228	8,441 65	7,317 85
Edgartown . . . . .	1	1	—	—	50	—	250 00	—
Egremont . . . . .	—	—	—	—	—	—	—	—
Erving . . . . .	1	1	—	—	2,000	2,000	300 00	210 00
Essex . . . . .	2	2	—	—	10,000	8,000	12,550 00	6,550 00
EVERETT . . . . .	69	61	7	1	5,235,425	10,418,000	93,518 84	88,340 84
Fairhaven . . . . .	7	5	2	—	119,100	70,850	134,062 89	57,862 89
FALL RIVER . . . . .	55	41	13	1	3,256,725	3,837,950	828,165 06	823,237 06
Falmouth . . . . .	37	32	1	4	334,325	367,923	49,978 02	47,067 92
FITCHBURG . . . . .	67	54	10	3	3,006,445	2,357,828	345,022 36	238,387 36
Florida . . . . .	—	—	—	—	—	—	—	—
Foxborough . . . . .	15	12	—	3	80,000	54,250	12,073 50	8,438 75
Frammingham . . . . .	18	15	3	—	364,420	419,500	134,683 95	133,962 95
Franklin . . . . .	8	6	2	—	433,500	355,500	53,235 20	49,935 20
Freetown . . . . .	11	8	—	3	11,300	8,350	5,386 58	2,515 50
GARDNER . . . . .	29	28	1	—	608,700	1,165,000	241,515 54	239,315 54
Gay Head . . . . .	—	—	—	—	—	—	—	—
Georgetown . . . . .	8	7	—	1	37,550	28,500	8,724 72	4,711 32
Gill . . . . .	—	—	—	—	—	—	—	—
GLOUCESTER . . . . .	109	100	4	5	2,767,633	4,853,469	216,104 57	209,284 57
Goshen . . . . .	—	—	—	—	—	—	—	—
Gosnold . . . . .	—	—	—	—	—	—	—	—
Grafton . . . . .	2	1	1	—	18,500	—	18,500 00	—
Granby . . . . .	5	3	—	2	7,635	10,800	5,192 00	2,477 00
Granville . . . . .	2	2	—	—	10,800	5,000	4,150 00	2,835 00
Gt. Barrington . . . . .	8	7	1	—	94,400	448,250	3,781 88	3,781 88
Greenfield . . . . .	43	35	2	6	154,275	293,325	12,666 85	11,456 85
Groton . . . . .	8	7	—	1	58,055	100,700	14,163 61	7,464 21
Groveland . . . . .	4	4	—	—	8,850	13,900	3,275 00	1,717 00
Hadley . . . . .	—	—	—	—	—	—	—	—
Halifax . . . . .	8	8	—	—	10,775	8,800	14,092 00	6,362 00
Hamilton . . . . .	4	3	1	—	39,500	46,000	8,722 00	8,623 00
Hampden . . . . .	1	1	—	—	5,000	7,000	1,040 28	1,040 28
Hancock . . . . .	—	—	—	—	—	—	—	—
Hanover . . . . .	6	5	—	1	14,830	13,050	5,204 30	2,920 71
Hanson . . . . .	4	3	—	1	7,650	11,300	4,814 00	4,514 00
Hardwick . . . . .	1	—	1	—	15,000	15,000	4,000 00	3,328 78
Harvard . . . . .	—	—	—	—	—	—	—	—
Harwich . . . . .	—	—	—	—	—	—	—	—
Hatfield . . . . .	2	2	—	—	15,000	15,200	12,770 00	12,770 00
HAVERHILL . . . . .	140	112	26	2	1,772,273	2,508,205	166,088 20	147,861 03
Hawley . . . . .	3	3	—	—	5,200	5,000	564 02	564 02
Heath . . . . .	—	—	—	—	—	—	—	—
Hingham . . . . .	13	12	1	—	124,600	160,115	34,911 59	34,011 19
Hinsdale . . . . .	2	2	—	—	6,700	1,250	9,200 00	700 00
Holbrook . . . . .	12	11	1	—	53,200	53,925	30,487 00	24,987 00
Holden . . . . .	9	9	—	—	46,600	37,214	41,340 06	7,179 06
Holland . . . . .	—	—	—	—	—	—	—	—
Holliston . . . . .	10	7	2	1	51,350	113,050	23,324 18	22,724 18
HOLYOKE . . . . .	160	45	95	20	6,586,535	12,862,970	166,160 94	161,008 94
Hopedale . . . . .	4	4	—	—	41,900	47,000	10,937 00	5,610 25
Hopkinton . . . . .	1	1	—	—	300	300	300 00	300 00
Hubbardston . . . . .	8	8	—	—	31,175	37,100	10,951 76	9,726 76

TABLE NO. 1.—*Showing Number of Fires, etc.—Continued.*

CITY OR TOWN	NUMBER OF FIRES				BUILDINGS AND CONTENTS.			
	Total.	Frame or stucco.	Brick, stone or cement.	Other than building fires.	Total Valuation.	Total Insurance.	Total Loss.	Total Insurance Loss.
Hudson . . . . .	34	21	4	9	\$239,825	\$226,350	\$8,300 38	\$7,475 38
Hull . . . . .	20	18	1	1	123,100	106,150	76,749 35	35,324 35
Huntington . . . . .	1	—	1	—	43,000	38,000	43,000 00	38,000 00
Ipswich . . . . .	19	17	1	1	131,800	178,500	32,098 64	27,424 24
Kingston . . . . .	—	—	—	—	—	—	—	—
Lakeville . . . . .	3	3	—	—	5,725	3,600	6,177 00	2,077 00
Lancaster . . . . .	2	2	—	—	11,500	8,500	9,500 00	8,000 00
Lanesborough . . . . .	1	1	—	—	1,000	—	800 00	—
LAWRENCE . . . . .	146	113	33	—	6,169,700	8,047,580	153,267 10	121,662 52
Lee . . . . .	9	6	—	3	19,825	36,000	3,516 50	2,791 50
Leicester . . . . .	4	3	1	—	125,050	186,000	50,180 00	45,422 00
Lenox . . . . .	—	—	—	—	—	—	—	—
LEOMINSTER . . . . .	49	43	4	2	486,325	898,425	90,234 38	89,169 38
Leverett . . . . .	1	—	1	—	1,300	—	5,000 00	—
Lexington . . . . .	15	15	—	—	121,600	116,500	19,613 49	16,454 00
Leyden . . . . .	—	—	—	—	—	—	—	—
Lincoln . . . . .	3	3	—	—	7,250	5,000	4,200 00	3,275 00
Littleton . . . . .	2	2	—	—	13,800	7,000	16,000 00	7,000 00
Littlesmeadow . . . . .	2	1	1	—	78,700	51,000	33,259 68	33,259 68
LOWELL . . . . .	140	121	19	—	1,839,650	2,235,225	181,585 78	181,585 78
Ludlow . . . . .	6	5	1	—	26,125	27,000	8,778 00	3,458 00
Lunenburg . . . . .	—	—	—	—	—	—	—	—
LYNN . . . . .	253	221	32	—	4,611,566	4,362,931	443,554 49	429,406 49
Lynnfield . . . . .	1	1	—	—	1,000	—	350 00	—
MALDEN . . . . .	117	96	18	3	1,801,334	2,005,967	232,352 33	215,130 79
Manchester . . . . .	8	8	—	—	28,400	30,900	5,405 94	3,917 94
Mansfield . . . . .	14	12	2	—	251,875	2,549,000	29,461 43	26,861 43
Marblehead . . . . .	—	—	—	—	—	—	—	—
Marion . . . . .	4	4	—	—	10,800	7,000	7,731 00	3,831 00
MARLBOROUGH . . . . .	28	26	2	—	139,000	196,500	29,552 40	23,473 03
Marshfield . . . . .	7	7	—	—	25,900	32,685	8,605 50	5,505 50
Mashpee . . . . .	—	—	—	—	—	—	—	—
Mattapoisett . . . . .	5	4	1	—	65,800	75,500	12,770 30	9,270 30
Maynard . . . . .	8	7	—	1	22,050	25,400	8,889 00	7,089 00
Medfield . . . . .	3	3	—	—	14,750	15,000	13,350 00	11,050 00
MEDFORD . . . . .	244	158	19	67	1,440,352	1,573,326	176,637 50	162,258 50
Medway . . . . .	8	8	—	—	44,075	40,400	6,925 78	5,955 78
MELROSE . . . . .	30	27	3	—	332,370	385,390	53,190 20	52,040 20
Mendon . . . . .	5	5	—	—	27,400	15,349	17,763 50	7,713 50
Merrimac . . . . .	4	4	—	—	11,050	18,250	18,766 90	15,306 90
Methuen . . . . .	85	60	2	23	250,042	299,484	82,180 72	77,431 22
Middleborough . . . . .	16	15	1	—	105,420	265,300	34,880 21	26,959 14
Middlefield . . . . .	—	—	—	—	—	—	—	—
Middleton . . . . .	3	3	—	—	1,900	3,000	1,900 00	1,100 00
Milford . . . . .	46	32	7	7	1,008,565	917,175	60,709 58	55,627 58
Millbury . . . . .	5	5	—	—	42,000	33,600	5,335 00	4,911 00
Millis . . . . .	12	11	—	1	31,825	47,200	10,562 70	9,253 60
Millville . . . . .	3	2	—	1	8,750	5,650	9,250 00	2,470 00
Milton . . . . .	8	8	—	—	44,700	110,900	16,097 43	15,997 43
Monroe . . . . .	—	—	—	—	—	—	—	—
Monson . . . . .	8	8	—	—	11,850	13,400	7,981 73	7,981 73
Montague . . . . .	7	5	2	—	18,750	19,595	23,873 32	14,089 84
Monterey . . . . .	—	—	—	—	—	—	—	—
Montgomery . . . . .	—	—	—	—	—	—	—	—
Mt. Washington . . . . .	—	—	—	—	—	—	—	—
Nahant . . . . .	21	20	—	1	123,100	133,700	29,770 64	13,570 64
Nantucket . . . . .	1	—	—	1	9,000	—	9,000 00	—
Natick . . . . .	53	40	2	11	238,685	316,560	37,754 20	30,086 70
Needham . . . . .	21	19	1	1	189,800	197,150	18,220 55	16,970 55
New Ashford . . . . .	—	—	—	—	—	—	—	—
NEW BEDFORD . . . . .	257	164	30	63	11,877,411	19,752,520	230,564 50	216,548 22
New Braintree . . . . .	4	3	1	—	42,270	55,750	60,551 00	50,977 31
New Marlboro . . . . .	3	3	—	—	4,650	3,595	3,380 00	1,810 00
New Salem . . . . .	—	—	—	—	—	—	—	—
Newbury . . . . .	6	6	—	—	19,200	11,250	14,500 00	9,950 00
NEWBURYPORT . . . . .	25	23	2	—	148,650	643,275	24,856 61	22,755 11
NEWTON . . . . .	114	70	17	27	925,005	1,342,125	105,652 98	100,772 98
Norfolk . . . . .	1	1	—	—	3,900	—	3,900 00	—
NORTH ADAMS . . . . .	60	44	5	11	610,800	376,300	116,023 08	89,909 08
North Andover . . . . .	3	3	—	—	18,000	9,500	6,525 00	6,525 00
North Attleboro . . . . .	—	—	—	—	—	—	—	—
North Brookfield . . . . .	1	1	—	—	1,500	850	850 00	550 00
North Reading . . . . .	9	9	—	—	29,425	35,900	4,295 00	2,480 00
NORTHAMPTON . . . . .	54	37	15	2	1,079,164	1,009,800	73,329 41	66,898 62
Northborough . . . . .	2	2	—	—	5,100	6,000	2,800 00	2,700 00

TABLE No. 1.—*Showing Number of Fires, etc.*—Continued.

CITY OR TOWN	NUMBER OF FIRES				BUILDINGS AND CONTENTS.			
	Total.	Frame or stucco.	Brick, stone or cement.	Other than building fires.	Total Valuation.	Total Insurance.	Total Loss.	Total Insurance Loss.
Northbridge . . . . .	6	4	-	2	\$92,750	\$112,100	\$7,910 00	\$1,871 83
Northfield . . . . .	-	-	-	-	-	-	-	-
Norton . . . . .	4	4	-	-	11,100	7,200	8,852 00	7,102 00
Norwell . . . . .	10	9	-	1	16,190	13,300	9,417 98	6,202 48
Norwood . . . . .	6	5	1	-	42,050	39,300	18,018 13	12,813 13
Oak Bluffs . . . . .	4	4	-	-	32,250	23,700	23,749 60	10,449 60
Oakham . . . . .	-	-	-	-	-	-	-	-
Orange . . . . .	18	17	1	-	60,810	80,300	14,169 62	13,969 62
Orleans . . . . .	4	3	-	1	4,400	5,700	447 62	180 00
Otis . . . . .	-	-	-	-	-	-	-	-
Oxford . . . . .	6	5	1	-	21,750	30,850	25,978 00	23,398 00
Palmer . . . . .	4	2	2	-	25,400	1,517,900	5,733 17	5,233 17
Paxton . . . . .	-	-	-	-	-	-	-	-
PEABODY . . . . .	76	72	4	-	1,544,048	1,383,950	141,012 61	130,166 61
Pelham . . . . .	-	-	-	-	-	-	-	-
Pembroke . . . . .	4	4	-	-	14,700	15,800	4,501 95	3,728 26
Pepperell . . . . .	1	1	-	-	1,500	-	1,500 00	-
Peru . . . . .	-	-	-	-	-	-	-	-
Petersham . . . . .	3	3	-	-	32,700	36,500	8,897 93	6,897 93
Phillipston . . . . .	2	2	-	-	800	2,500	299 00	99 00
PITTSFIELD . . . . .	95	65	28	2	1,977,797	2,522,187	98,843 96	97,082 16
Plainfield . . . . .	3	3	-	-	16,200	11,600	13,364 00	3,594 00
Plainville . . . . .	1	1	-	-	2,300	-	800 00	-
Plymouth . . . . .	5	5	-	-	19,700	26,200	18,750 00	9,650 00
Plympton . . . . .	1	1	-	-	100	-	100 00	-
Princeton . . . . .	3	3	-	-	8,050	15,000	5,455 00	5,155 00
Provincetown . . . . .	16	13	-	3	79,515	77,765	15,913 43	13,413 43
QUINCY . . . . .	151	105	25	21	1,593,989	1,607,370	241,004 70	198,795 81
Randolph . . . . .	22	20	2	-	64,900	72,600	22,540 46	18,590 46
Raynham . . . . .	3	3	-	-	5,400	3,000	3,578 88	1,628 88
Reading . . . . .	-	-	-	-	-	-	-	-
Rehoboth . . . . .	-	-	-	-	-	-	-	-
REVERE . . . . .	89	76	5	8	1,027,325	775,225	217,703 10	165,940 67
Richmond . . . . .	1	1	-	-	900	1,500	3,900 00	1,500 00
Rochester . . . . .	-	-	-	-	-	-	-	-
Rockland . . . . .	6	5	1	-	124,175	118,880	20,465 55	20,465 55
Rockport . . . . .	11	11	-	-	90,500	64,000	68,178 00	37,916 40
Rowe . . . . .	1	1	-	-	5,000	-	2,000 00	-
Rowley . . . . .	-	-	-	-	-	-	-	-
Royalston . . . . .	3	3	-	-	4,100	7,500	5,489 00	4,689 00
Russell . . . . .	-	-	-	-	-	-	-	-
Rutland . . . . .	2	1	-	1	2,200	-	85 00	-
SALEM . . . . .	63	48	15	-	18,359,543	15,332,925	61,587 97	58,137 97
Salisbury . . . . .	6	6	-	-	9,350	-	9,400 00	-
Sandisfield . . . . .	1	1	-	-	4,200	4,000	1,200 00	1,000 00
Sandwich . . . . .	-	-	-	-	-	-	-	-
Saugus . . . . .	38	37	1	-	264,725	355,100	150,017 30	146,542 95
Savoy . . . . .	-	-	-	-	-	-	-	-
Scituate . . . . .	1	1	-	-	3,500	6,000	6,000 00	6,000 00
Seekonk . . . . .	1	1	-	-	2,500	800	3,000 00	800 00
Sharon . . . . .	-	-	-	-	-	-	-	-
Sheffield . . . . .	6	6	-	-	20,100	19,700	26,295 25	15,460 25
Shelburne . . . . .	1	1	-	-	22,500	19,200	19,635 00	15,635 00
Sherborn . . . . .	1	1	-	-	2,000	2,900	2,050 00	2,050 00
Shirley . . . . .	2	2	-	-	14,000	16,000	5,065 00	565 00
Shrewsbury . . . . .	21	20	1	-	78,600	84,500	22,178 00	21,440 00
Shutesbury . . . . .	-	-	-	-	-	-	-	-
Somerset . . . . .	18	13	1	4	54,100	63,560	32,444 04	30,319 04
SOMERVILLE . . . . .	203	147	41	15	2,672,343	2,811,030	271,433 31	259,575 81
South Hadley . . . . .	18	11	3	4	66,771	68,821	17,195 41	12,755 41
Southampton . . . . .	-	-	-	-	-	-	-	-
Southborough . . . . .	6	4	-	2	9,050	-	4,810 00	-
Southbridge . . . . .	35	28	7	-	846,000	550,150	37,233 11	35,748 11
Southwick . . . . .	1	1	-	-	2,500	-	2,500 00	-
Spencer . . . . .	6	6	-	-	16,000	25,500	2,834 34	2,134 34
SPRINGFIELD . . . . .	445	243	86	116	6,348,252	6,352,268	346,328 01	322,414 26
Sterling . . . . .	4	4	-	-	9,700	13,250	8,715 00	8,715 00
Stockbridge . . . . .	1	1	-	-	4,000	-	4,000 00	-
Stoneham . . . . .	6	6	-	-	58,550	43,000	9,419 87	9,394 87
Stoughton . . . . .	24	22	2	-	185,100	408,375	78,367 45	75,447 45
Stow . . . . .	9	9	-	-	15,815	23,325	20,405 00	12,560 58
Sturbridge . . . . .	2	1	-	1	1,250	-	1,300 00	-
Sudbury . . . . .	-	-	-	-	-	-	-	-
Sunderland . . . . .	-	-	-	-	-	-	-	-
Sutton . . . . .	7	7	-	-	8,055	3,650	6,840 95	2,302 00

TABLE No. 1.—*Showing Number of Fires, etc.*—Concluded.

CITY OR TOWN	NUMBER OF FIRES				BUILDINGS AND CONTENTS.			
	Total.	Frame or stucco.	Brick, stone or cement.	Other than building fires.	Total Valuation.	Total Insurance.	Total Loss.	Total Insurance Loss.
Swampscott . . . . .	8	8	—	—	\$208,322	\$1,421,025	\$19,137 64	\$18,137 64
Swansea . . . . .	18	16	1	1	45,300	27,950	31,613 35	9,413 35
Taunton . . . . .	50	38	12	—	772,700	917,720	84,439 59	91,759 59
Templeton . . . . .	12	10	2	—	85,225	75,087	32,938 89	23,977 54
Tewksbury . . . . .	19	11	—	8	28,475	37,400	21,799 00	19,454 00
Tisbury . . . . .	8	7	—	1	99,075	163,500	6,426 64	5,914 89
Tolland . . . . .	—	—	—	—	—	—	—	—
Topsfield . . . . .	3	2	1	—	9,500	—	5,500 00	—
Townsend . . . . .	5	5	—	—	10,600	11,000	6,450 00	3,751 50
Truro . . . . .	—	—	—	—	—	—	—	—
Tyngsborough . . . . .	2	2	—	—	3,400	7,200	1,188 45	1,188 45
Tyringham . . . . .	1	1	—	—	1,500	1,500	2,400 00	1,500 00
Upton . . . . .	3	3	—	—	11,600	8,000	6,411 10	3,576 10
Uxbridge . . . . .	9	8	1	—	55,500	65,200	32,140 40	28,764 15
Wakefield . . . . .	22	16	3	3	131,065	124,685	13,427 49	12,529 49
Wales . . . . .	4	4	—	—	11,850	10,000	13,033 50	7,528 50
Walpole . . . . .	14	11	2	1	3,031,032	3,084,881	45,576 98	44,676 98
WALTHAM . . . . .	93	66	13	14	1,300,309	1,429,659	133,665 04	109,321 04
Ware . . . . .	7	5	2	—	503,000	494,850	28,740 00	15,756 67
Wareham . . . . .	9	6	—	3	42,135	30,700	36,361 00	21,266 00
Warren . . . . .	2	2	—	—	8,200	8,107	7,607 00	7,592 00
Warwick . . . . .	4	4	—	—	6,050	7,000	4,935 00	2,265 00
Washington . . . . .	—	—	—	—	—	—	—	—
Watertown . . . . .	33	28	5	—	1,249,850	1,078,400	59,473 62	58,373 62
Wayland . . . . .	11	11	—	—	27,250	24,300	17,813 00	10,263 00
Webster . . . . .	27	24	—	3	243,296	173,880	51,949 71	49,949 71
Wellesley . . . . .	34	23	4	7	456,300	614,900	301,026 57	299,026 57
Wellfleet . . . . .	—	—	—	—	—	—	—	—
Wendell . . . . .	—	—	—	—	—	—	—	—
Wenham . . . . .	2	2	—	—	24,700	28,850	6,637 50	6,631 00
West Boylston . . . . .	4	3	1	—	62,000	—	54,250 00	—
West Bridgewater . . . . .	13	11	1	1	50,750	54,627	15,324 70	10,842 23
West Brookfield . . . . .	5	5	—	—	35,300	38,450	9,093 57	8,893 57
West Newbury . . . . .	1	1	—	—	3,800	4,500	80 00	80 00
West Springfield . . . . .	64	36	11	17	821,325	4,413,512	58,443 22	47,752 72
West Stockbridge . . . . .	1	1	—	—	1,000	1,500	200 00	200 00
West Tisbury . . . . .	—	—	—	—	—	—	—	—
Westborough . . . . .	6	6	—	—	37,900	64,050	7,215 27	5,794 17
WESTFIELD . . . . .	70	50	10	10	756,390	694,080	103,979 87	70,813 87
Westford . . . . .	3	3	—	—	36,100	12,000	37,000 00	8,951 00
Westhampton . . . . .	—	—	—	—	—	—	—	—
Westminster . . . . .	2	2	—	—	11,500	5,500	9,500 00	5,100 00
Weston . . . . .	2	2	—	—	18,150	30,500	32,150 00	30,500 00
Westport . . . . .	5	5	—	—	48,600	37,500	40,188 00	26,463 00
Westwood . . . . .	—	—	—	—	—	—	—	—
Weymouth . . . . .	78	76	—	2	246,810	363,160	45,171 90	42,961 90
Whately . . . . .	2	2	—	—	2,375	5,000	2,900 00	2,032 00
Whitman . . . . .	1	1	—	—	6,400	5,400	4,508 00	4,408 00
Wilbraham . . . . .	7	7	—	—	10,060	25,450	10,201 00	4,501 00
Williamsburg . . . . .	—	—	—	—	—	—	—	—
Williamstown . . . . .	16	14	1	1	80,842	83,800	55,842 93	51,850 93
Wilmington . . . . .	18	17	1	—	80,400	53,550	35,630 00	23,255 00
Winchendon . . . . .	—	—	—	—	—	—	—	—
Winchester . . . . .	50	35	4	11	438,860	548,100	44,047 90	39,021 40
Windsor . . . . .	—	—	—	—	—	—	—	—
Winthrop . . . . .	28	24	3	1	243,900	261,225	21,616 05	20,766 05
WOBN . . . . .	41	37	4	1	1,339,218	2,322,818	99,301 79	95,976 79
WORCESTER . . . . .	391	261	124	6	26,698,608	24,567,619	941,129 26	779,697 06
Worthington . . . . .	1	1	—	—	20,000	—	30,000 00	—
Wrentham . . . . .	3	3	—	—	14,000	14,300	8,027 00	8,027 00
Yarmouth . . . . .	8	8	—	—	16,300	32,300	6,574 39	3,478 39
Grand total . . . . .	10,034	6,376	2,272	1,386	\$328,470,457	\$380,921,922	\$17,294,928 62	\$14,858,475 50
Total State, exclusive of Boston . . . . .	7,010	5,302	1,056	652	\$190,394,281	\$224,017,177	\$12,917,802 04	\$10,932,668 41



TABLE NO. 2.—*Fires classified by Causes, Number of Fires from Cause and Loss.*

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

CAUSE.	Number of Fires.	Loss.	
		Buildings.	Contents.
Boiling over of fat, tar, oils, etc. . . . .	S. 130 B. 24	\$93,158 34 17,669 60	\$37,376 30 14,750 45
Total, buildings . . . . .		\$110,827 94	\$52,126 75
Total, contents . . . . .		52,126 75	
Total, buildings and contents . . . . .	154	\$162,954 69	
Burning soot . . . . .	S. 2 B. 1	— \$132.00	\$556 50 —
Total, buildings . . . . .		\$132 00	
Total, contents . . . . .		556 50	
Total, buildings and contents . . . . .	3	\$688 50	
Careless smoking . . . . .	S. 1,538 B. 1,077	\$1,296,946 18 700,652 22	\$957,870 29 529,940 53
Total, buildings . . . . .		\$1,997,598 40	\$1,487,810 82
Total, contents . . . . .		1,487,810 82	
Total, buildings and contents . . . . .	2,615	\$3,485,409 22	
Careless use of matches . . . . .	S. 161 B. 67	\$101,499 81 52,109 11	\$43,006 34 22,332 98
Total, buildings . . . . .		\$153,608 92	\$65,339 32
Total, contents . . . . .		65,339 32	
Total, buildings and contents . . . . .	228	\$218,948 24	
Children and matches . . . . .	S. 421 B. 137	\$233,956 92 51,297 03	\$109,078 10 9,289 06
Total, buildings . . . . .		\$285,253 95	\$118,367 16
Total, contents . . . . .		118,367 16	
Total, buildings and contents . . . . .	558	\$403,621 11	
Defective chimneys . . . . .	S. 457 B. 92	\$462,940 86 93,037 12	\$124,871 81 48,300 11
Total, buildings . . . . .		\$555,977 98	\$173,171 92
Total, contents . . . . .		173,171 92	
Total, buildings and contents . . . . .	549	\$729,149 90	
Defective construction . . . . .	S. 3 B. —	\$6,407 36 —	\$1,886 00 —
Total, buildings . . . . .		\$6,407 36	\$1,886 00
Total, contents . . . . .		1,886 00	
Total, buildings and contents . . . . .	3	\$8,293 36	
Defective heating apparatus . . . . .	S. 47 B. 2	\$24,826 86 2,582 98	\$9,147 84 1,092 50
Total, buildings . . . . .		\$27,409 84	\$10,240 34
Total, contents . . . . .		10,240 34	
Total, buildings and contents . . . . .	49	\$37,650 18	
Defective heating apparatus (oil burning) . . . . .	S. 281 B. 55	\$268,773 95 31,304 82	\$159,124 73 15,217 62
Total, buildings . . . . .		\$300,078 77	\$174,342 35
Total, contents . . . . .		174,342 35	
Total, buildings and contents . . . . .	336	\$474,421 12	

TABLE NO. 2.—*Fires classified by Causes, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

CAUSE.	Number of Fires.	Loss.	
		Buildings.	Contents.
Electrical causes . . . . .	S. 656 B. 238	\$1,204,607 89 651,029 21	\$947,448 66 370,454 22
Total, buildings . . . . .		\$1,855,637 10	\$1,317,902 88
Total, contents . . . . .		1,317,902 88	
Total, buildings and contents . . . . .	894	\$3,173,539 98	
Electrical causes . . . . .	S. 261	—	\$30,981 50
(Automobiles) . . . . .	B. 305	—	19,813 70
Total, buildings . . . . .		—	\$50,795 20
Total, contents . . . . .		\$50,795 20	
Total, buildings and contents . . . . .	566	\$50,795 20	
Escaping gas igniting . . . . .	S. 16 B. —	\$38,344 90	\$23,926 56
Total, buildings . . . . .		\$38,344 90	\$23,926 56
Total, contents . . . . .		23,926 56	
Total, buildings and contents . . . . .	16	\$62,271 46	
Explosion of lamp, lantern or stove . . . . .	S. 34 B. 8	\$72,882 18 15,298 78	\$68,213 48 5,555 00
Total, buildings . . . . .		\$88,180 96	\$73,768 48
Total, contents . . . . .		73,768 48	
Total, buildings and contents . . . . .	42	\$161,949 44	
Exposure* . . . . .	S. 177 B. 95	\$238,619 26 97,049 22	\$188,942 23 46,452 52
Total, buildings . . . . .		\$335,668 48	\$235,394 75
Total, contents . . . . .		235,394 75	
Total, buildings and contents . . . . .	272	\$571,063 23	
Fireworks . . . . .	S. 3 B. —	\$885 37	\$56 00
Total, buildings . . . . .		\$885 37	\$56 00
Total, contents . . . . .		56 00	
Total, buildings and contents . . . . .	3	\$941 37	
Friction . . . . .	S. 14 B. 7	\$18,742 16 11,637 49	\$27,893 02 235 00
Total, buildings . . . . .		\$30,379 65	\$28,128 02
Total, contents . . . . .		28,128 02	
Total, buildings and contents . . . . .	21	\$58,507 67	
Gas and electric irons . . . . .	S. 62 B. 18	\$19,278 51 11,555 50	\$8,971 61 5,365 54
Total, buildings . . . . .		\$30,834 01	\$14,337 15
Total, contents . . . . .		14,337 15	
Total, buildings and contents . . . . .	80	\$45,171 16	
Grease in ventilator igniting . . . . .	S. 6 B. 3	\$36,450 42 3,697 30	\$5,255 79 6,918 90
Total, buildings . . . . .		\$40,147 72	\$12,174 69
Total, contents . . . . .		12,174 69	
Total, buildings and contents . . . . .	9	\$52,322 41	

TABLE NO. 2.—*Fires classified by Causes, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

CAUSE.						Loss.	
						Buildings.	Contents.
Heating or lighting apparatus	.	.	.	S.	170	\$82,191 59	\$63,863 31
Igniting merchandise, etc.	.	.	.	B.	88	72,980 79	24,650 85
Total, buildings	.	.	.	.	.	\$155,172 38	\$88,514 16
Total, contents	.	.	.	.	.	88,514 16	
Total, buildings and contents	.	.	.	.	258	\$243,686 54	
Hot ashes	.	.	.	S.	71	\$69,435 66	\$22,622 52
	.	.	.	B.	30	11,581 00	2,594 01
Total, buildings	.	.	.	.	.	\$81,016 66	\$25,216 53
Total, contents	.	.	.	.	.	25,216 53	
Total, buildings and contents	.	.	.	.	101	\$106,233 19	
Incendiary	.	.	.	S.	123	\$210,185 04	\$45,632 41
	.	.	.	B.	22	169,855 12	53,868 81
Total, buildings	.	.	.	.	.	\$380,040 16	\$99,501 22
Total, contents	.	.	.	.	.	99,501 22	
Total, buildings and contents	.	.	.	.	145	\$479,541 38	
Lighting fire with kerosene or gasoline	.	.	.	S.	4	\$5,735 50	\$2,742 00
	.	.	.	B.	—	—	—
Total, buildings	.	.	.	.	.	\$5,735 50	\$2,742 00
Total, contents	.	.	.	.	.	2,742 00	
Total, buildings and contents	.	.	.	.	4	\$8,477 50	
Lightning	.	.	.	S.	73	\$150,757 74	\$86,741 07
	.	.	.	B.	4	2,954 00	—
Total, buildings	.	.	.	.	.	\$153,711 74	\$86,741 07
Total, contents	.	.	.	.	.	86,741 07	
Total, buildings and contents	.	.	.	.	77	\$240,452 81	
Malicious mischief	.	.	.	S.	102	\$63,222 32	\$28,981 45
	.	.	.	B.	123	52,805 71	10,042 48
Total, buildings	.	.	.	.	.	\$116,028 03	\$39,023 93
Total, contents	.	.	.	.	.	39,023 93	
Total, buildings and contents	.	.	.	.	225	\$155,051 96	
Mechanics' torches	.	.	.	S.	97	\$72,051 25	\$31,872 80
	.	.	.	B.	21	5,755 37	4,181 22
Total, buildings	.	.	.	.	.	\$77,806 62	\$36,054 02
Total, contents	.	.	.	.	.	36,054 02	
Total, buildings and contents	.	.	.	.	118	\$113,860 64	
Miscellaneous	.	.	.	S.	11	\$7,295 64	\$2,448 32
	.	.	.	B.	5	1,002 00	2,805 00
Total, buildings	.	.	.	.	.	\$8,297 64	\$5,253 32
Total, contents	.	.	.	.	.	5,253 32	
Total, buildings and contents	.	.	.	.	16	\$13,550 96	
Overheated cooking or heating apparatus	.	.	.	S.	199	\$473,714 78	\$326,909 65
	.	.	.	B.	19	11,200 78	5,319 77
Total, buildings	.	.	.	.	.	\$484,915 56	\$332,229 42
Total, contents	.	.	.	.	.	332,229 42	
Total, buildings and contents	.	.	.	.	218	\$817,144 98	

TABLE NO. 2.—*Fires classified by Causes, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

CAUSE.	Number of Fires.	Loss.	
		Buildings.	Contents.
Range oil burners . . . . .	S. 252 B. 68	\$189,451 66 25,343 74	\$88,150 94 8,485 97
Total, buildings . . . . .		\$214,795 40	\$96,636 91
Total, contents . . . . .		96,636 91	
Total, buildings and contents . . . . .	320	\$311,432 31	
Rats and matches . . . . .	S. 10 B. 1	\$ 6,615 95 250 00	\$13,386 45 25 00
Total, buildings . . . . .		\$6,865 95	\$13,411 45
Total, contents . . . . .		13,411 45	
Total, buildings and contents . . . . .	11	\$20,277 40	
Sparks from bonfires; forest, brush or grass fires . . . . .	S. 489 B. 49	\$322,799 54 16,491 06	\$104,927 57 3,202 88
Total, buildings . . . . .		\$339,290 60	\$108,130 45
Total, contents . . . . .		108,130 45	
Total, buildings and contents . . . . .	538	\$447,421 05	
Sparks from chimneys . . . . .	S. 110 B. 55	\$61,182 03 27,696 41	\$12,784 58 7,018 75
Total, buildings . . . . .		\$88,878 44	\$19,803 33
Total, contents . . . . .		19,803 33	
Total, buildings and contents . . . . .	165	\$108,681 77	
Sparks from furnaces, forges, stoves, fireplaces, etc. . . . .	S. 77 B. 22	\$116,252 54 31,206 11	\$62,707 63 21,296 18
Total, buildings . . . . .		\$147,458 65	\$84,003 81
Total, contents . . . . .		84,003 81	
Total, Buildings and contents . . . . .	99	\$231,462 46	
Sparks from locomotives . . . . .	S. 3 B. 4	\$447 58 3,410 25	\$746 58 5 00
Total, buildings . . . . .		\$3,857 83	\$751 58
Total, contents . . . . .		751 58	
Total, buildings and contents . . . . .	7	\$4,609 41	
Spontaneous ignition . . . . .	S. 305 B. 82	\$520,594 75 114,493 12	\$283,085 51 131,166 94
Total, buildings . . . . .		\$635,087 87	\$414,252 45
Total, contents . . . . .		414,252 45	
Total, buildings and contents . . . . .	387	\$1,049,340 32	
Thawing water pipes . . . . .	S. 24 B. 8	\$17,350 53 9,294 00	\$1,360 00 5,637 55
Total, buildings . . . . .		\$26,644 53	\$6,997 55
Total, contents . . . . .		6,997 55	
Total, buildings and contents . . . . .	32	\$33,642 08	



TABLE NO. 2.—*Fires classified by Causes, etc.*—Concluded.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

CAUSE.	Number of Fires.	Loss.	
		Buildings.	Contents.
Unknown . . . . .	S. 220 B. 81	\$959,454 88 394,697 66	\$1,299,949 82 248,480 23
Total, buildings . . . . .		\$1,354,152 54	\$1,548,430 05
Total, contents . . . . .		1,548,430 05	
Total, buildings and contents . . . . .	301	\$2,902,582 59	
Unknown, suspicious . . . . .	S. 16 B. 4	\$19,665 25 9,652 00	\$4,954 00 2,612 90
Total, buildings . . . . .		\$29,317 25	\$7,566 90
Total, contents . . . . .		7,566 90	
Total, buildings and contents . . . . .	20	\$36,884 15	
Volatile oils and inflammable fluids, ignition of . . . . .	S. 134 B. 35	\$167,494 77 40,750 00	\$92,702 22 23,928 08
Total, buildings . . . . .		\$208,244 77	\$116,630 30
Total, contents . . . . .		116,630 30	
Total, buildings and contents . . . . .	169	\$324,875 07	
Volatile oils and inflammable fluids, ignition of (autos) . . . . .	S. 159 B. 167	— —	\$36,065 22 11,803 09
Total, buildings . . . . .		—	\$47,868 31
Total, contents . . . . .		\$47,868 31	
Total, buildings and contents . . . . .	326	\$47,868 31	
Portable and cabinet oil burners . . . . .	S. 269 B. 102	\$237,289 86 79,038 69	\$116,612 88 38,275 30
Total, buildings . . . . .		\$316,328 55	\$154,888 18
Total, contents . . . . .		154,888 18	
Total, buildings and contents . . . . .	371	\$471,216 73	
Grand Total . . . . .	10,034	\$17,294,928 62	

\*Exposures not included in Grand Total.

TABLE NO. 3.—*Giving Description of Property, Number of Fires, and Loss.*

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

PROPERTY	Number of Fires.	Loss.	
		Buildings.	Contents.
Aircraft . . . . .	S. — B. —	\$ —	\$ —
Automobiles . . . . .	S. 589 B. 671	—	96,029 97 52,315 75
Total . . . . .	1,260	—	148,345 72
Bakeries . . . . .	S. 13 B. 4	13,735 60 8,149 36	9,362 00 105 00
Total . . . . .	17	21,884 96	9,467 00
Banks . . . . .	S. 3 B. 1	2,004 64 —	— 85 00
Total . . . . .	4	2,004 64	85 00

TABLE NO. 3.—*Giving Description of Property, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

PROPERTY	Number of Fires.	Loss.	
		Buildings.	Contents.
Barber shops and beauty parlors . . . . .	S. 2 B. 1	\$5,000 00 365 25	\$3,102 00 150 00
Total . . . . .	3	5,365 25	3,252 00
Barns and stables . . . . .	S. 206 B. 14	398,014 71 26,267 00	165,191 35 1,165 00
Total . . . . .	220	424,281 71	166,356 35
Blacksmith shops . . . . .	S. 2 B. 1	265 00 100 00	— —
Total . . . . .	3	365 00	—
Boarding and lodging houses and dormitories . . . . .	S. 70 B. 112	173,125 00 52,814 08	15,108 24 13,878 60
Total . . . . .	182	225,939 08	28,986 84
Boats . . . . .	S. 12 B. 9	22,345 95 86,687 00	500 00 50 00
Total . . . . .	21	109,032 95	550 00
Bowling alleys . . . . .	S. 7 B. 6	10,157 72 22,610 69	10,610 00 8,430 95
Total . . . . .	13	32,768 41	19,040 95
Bridges . . . . .	S. 1 B. 1	50 00 10 00	— —
Total . . . . .	2	60 00	—
Buildings in process of construction . . . . .	S. 6 B. —	15,554 91 —	750 00 —
Total . . . . .	6	15,554 91	750 00
Business blocks and office buildings . . . . .	S. 49 B. 25	200,163 57 40,151 44	152,942 59 47,684 32
Total . . . . .	74	240,315 01	200,626 91
Carpenter shops . . . . .	S. 2 B. 1	1,574 67 150 00	180 00 200 00
Total . . . . .	3	1,724 67	380 00
Churches . . . . .	S. 24 B. 3	161,728 45 2,120 00	29,660 00 3,500 00
Total . . . . .	27	163,848 45	33,160 00
Cloak and suit or clothing factories or shops . . . . .	S. 1 B. —	290 00 —	— —
Total . . . . .	1	290 00	—
Clothing or furnishing stores . . . . .	S. 5 B. 2	6,310 00 —	13,347 84 180 00
Total . . . . .	7	6,310 00	13,527 84
Club and lodge rooms . . . . .	S. 37 B. 10	139,304 59 27,598 12	22,182 50 10,300 28
Total . . . . .	47	166,902 71	32,482 78
Coal yards . . . . .	S. 8 B. 4	9,978 00 26,625 50	1,000 00 4,510 95
Total . . . . .	12	36,603 50	5,510 95
Cotton mills . . . . .	S. 3 B. 2	2,306 51 754 09	4,290 54 308 00
Total . . . . .	5	3,060 60	4,598 54

TABLE No. 3.—*Giving Description of Property, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

PROPERTY	Number of Fires.	Loss.	
		Buildings.	Contents.
Department stores . . . . .	S. 4 B. 4	\$1,492 79 2,463 29	\$7,612 58 2,420 03
Total . . . . .	8	3,956 08	10,032 61
Docks and wharves . . . . .	S. 2 B. 6	515 50 9,013 50	— 2,380 44
Total . . . . .	8	9,529 00	2,380 44
Drug stores . . . . .	S. 2 B. 6	1,503 00 2,274 01	4,637 00 1,206 46
Total . . . . .	8	3,777 01	5,843 46
Dry cleaning and dyeing establishments . . . . .	S. 13 B. 5	5,568 04 6,696 72	3,846 51 3,228 49
Total . . . . .	18	12,264 76	7,075 00
Dwellings . . . . .	S. 3,902 B. 1,276	2,909,429 34 869,754 25	1,044,152 77 376,264 29
Total . . . . .	5,178	3,779,183 59	1,420,417 06
Factories and workshops not otherwise listed . . . . .	S. 220 B. 49	866,758 86 103,951 20	1,225,726 44 84,190 47
Total . . . . .	269	970,710 06	1,309,916 91
Food and canning plants . . . . .	S. 37 B. 16	86,730 29 28,535 10	169,800 01 19,888 40
Total . . . . .	53	115,265 39	189,688 41
Foundries . . . . .	S. 10 B. 5	11,282 97 8,725 04	16,228 83 1,100 00
Total . . . . .	15	20,008 01	17,328 83
Garages . . . . .	S. 332 B. 49	236,489 09 11,923 08	201,079 26 13,323 68
Total . . . . .	381	248,412 17	214,402 94
Gas and electrical plants . . . . .	S. 8 B. 1	7,384 69 3,000 00	4,123 00 —
Total . . . . .	9	10,384 69	4,123 00
Gasoline filling stations . . . . .	S. 35 B. 3	24,586 32 275 00	16,996 75 —
Total . . . . .	38	24,861 32	16,996 75
Greenhouses . . . . .	S. 8 B. —	5,168 50 —	2,025 00 —
Total . . . . .	8	5,168 50	2,025 00
Halls . . . . .	S. 15 B. 2	41,418 31 200 00	4,460 83 15 00
Total . . . . .	17	41,618 31	4,475 83
Henneries . . . . .	S. 92 B. 4	72,302 51 1,364 00	34,021 41 —
Total . . . . .	96	73,666 51	34,021 41
Hospitals . . . . .	S. 18 B. 11	39,942 71 495 00	7,534 34 340 00
Total . . . . .	29	40,437 71	7,874 34
Hotels . . . . .	S. 25 B. 18	37,892 14 10,466 57	9,224 65 4,550 67
Total . . . . .	43	48,358 71	13,775 32

TABLE NO. 3.—*Giving Description of Property, etc.*—Continued.

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

PROPERTY	Number of Fires.	Loss.	
		Buildings.	Contents.
Ice houses . . . . .	S. 16 B. 1	\$58,208 75 22,452 00	\$18,200 00 307 00
Total . . . . .	17	80,660 75	18,507 00
Jewelry and watch factories . . . . .	S. 2 B. —	50 00 —	74 67 —
Total . . . . .	2	50 00	74 67
Junk and rag shops . . . . .	S. 3 B. 5	540 00 869 67	989 00 1,020 00
Total . . . . .	8	1,409 67	2,009 00
Laundries . . . . .	S. 12 B. 8	60,487 38 4,860 00	31,093 93 4,706 46
Total . . . . .	20	65,347 38	35,800 39
Leather establishments . . . . .	S. 15 B. 1	19,783 40 96 96	37,288 25 —
Total . . . . .	16	19,880 36	37,288 25
Lumber yards . . . . .	S. 29 B. 6	22,947 75 17,537 69	19,520 13 8,381 03
Total . . . . .	35	40,505 44	27,901 16
Machine shops . . . . .	S. 8 B. 3	20,081 55 16,150 50	22,030 70 27,589 00
Total . . . . .	11	36,232 05	49,619 70
Novelty and toy shops . . . . .	S. 12 B. 6	2,439 10 1,057 20	2,804 04 2,180 00
Total . . . . .	18	3,496 30	4,984 04
Outbuildings . . . . .	S. 117 B. 52	18,170 69 15,685 00	10,100 24 613 85
Total . . . . .	169	33,855 69	10,714 09
Paint shops . . . . .	S. 6 B. —	36,999 00 —	15,905 35 —
Total . . . . .	6	36,999 00	15,905 35
Paper mills . . . . .	S. 12 B. —	10,669 89 —	6,808 54 —
Total . . . . .	12	10,669 89	6,808 54
Photograph studios . . . . .	S. 1 B. —	60 00 —	154 00 —
Total . . . . .	1	60 00	154 00
Plumbing shops . . . . .	S. 1 B. 2	850 00 475 00	600 00 1,702 14
Total . . . . .	3	1,325 00	2,302 14
Printing establishments and newspaper plants . . . . .	S. 11 B. 5	7,749 82 9,969 00	8,610 18 1,951 42
Total . . . . .	16	17,718 82	10,561 60
Public buildings and other public property . . . . .	S. 12 B. 4	36,248 27 2,360 00	3,204 00 225 00
Total . . . . .	16	38,608 27	3,429 00



TABLE No. 3.—*Giving Description of Property, etc.—Concluded.*

("S" signifies State, exclusive of Boston; "B" signifies Boston.)

PROPERTY	Number of Fires.	Loss.	
		Buildings.	Contents.
Railroad buildings and rolling stock . . . . .	S. 16 B. 9	\$12,415 00 135 00	\$23,512 00 12,727 22
Total . . . . .	25	12,550 00	36,239 22
Restaurants . . . . .	S. 100 B. 44	184,058 50 84,797 16	133,534 04 103,444 91
Total . . . . .	144	268,855 66	236,978 95
Schools and academies, private . . . . .	S. 5 B. 6	32,721 13 22,769 00	5,886 50 2,050 00
Total . . . . .	11	55,490 13	7,936 50
Schools, public . . . . .	S. 11 B. 4	125,978 48 39,500 00	14,585 00 9,200 00
Total . . . . .	15	165,478 48	23,785 00
Storehouses and warehouses . . . . .	S. 142 B. 42	191,918 55 448,908 73	224,057 76 213,058 82
Total . . . . .	184	640,827 28	437,116 58
Shoe factories . . . . .	S. 21 B. 4	56,803 01 1,729 77	171,677 21 1,495 59
Total . . . . .	25	58,532 78	173,172 80
Stores and dwellings . . . . .	S. 248 B. 210	326,420 39 148,964 15	252,246 06 72,841 39
Total . . . . .	458	475,384 54	325,087 45
Stores, retail, unclassified . . . . .	S. 309 B. 224	646,105 14 462,957 06	778,137 44 527,027 52
Total . . . . .	533	1,109,062 20	1,305,164 96
Summer cottages and camps . . . . .	S. 61 B. —	64,202 33 —	26,489 40 —
Total . . . . .	61	64,202 33	26,489 40
Tailor shops . . . . .	S. 7 B. 2	16,592 99 50 00	2,971 55 65 00
Total . . . . .	9	16,642 99	3,036 55
Tanneries . . . . .	S. 1 B. —	— —	198 99 —
Total . . . . .	1	—	198 99
Theatres . . . . .	S. 6 B. 5	13,561 40 59,897 04	4,750 00 9,059 00
Total . . . . .	11	73,458 44	13,809 00
Unclassed . . . . .	S. 49 B. 58	6,745 22 7,430 75	3,717 01 1,353 94
Total . . . . .	107	14,175 97	5,070 95
Woodworking plants with power . . . . .	S. 9 B. —	8,133 45 —	17,750 06 —
Total . . . . .	9	8,133 45	17,750 06
Woolen mills . . . . .	S. 5 B. 1	141,575 00 250 00	172,289 00 1,894 55
Total . . . . .	6	141,825 00	174,183 55
Grand total . . . . .	10,034	\$10,355,351 54	\$6,939,577 08
Total State, exclusive of Boston . . . . .	7,010	\$ 7,632,890 57	\$5,284,911 46

TABLE No. 4.—*Number of Incendiary and Unknown Fires in the State, exclusive of Boston, and in Boston, and the Number of Arrests and Convictions in the State, from the year 1916 to 1946, inclusive.*

YEAR	STATE, EXCLUSIVE OF BOSTON.		BOSTON.		STATE.	
	Incendiary.	Unknown.	Incendiary.	Unknown.	Arrests.	Convictions.
1916	134	540	21	267	141	69
1917	110	446	16	241	71	32
1918	65	375	12	185	46	29
1919	59	415	6	219	32	24
1920	44	294	7	179	25	13
1921	78	552	2	128	59	24
1922	82	301	9	139	48	28
1923	98	291	7	141	82	47
1924	102	345	17	151	49	16
1925	111	291	7	203	89	41
1926	89	333	9	261	88	54
1927	147	314	38	177	86	45
1928	91	304	35	107	66	38
1929	130	301	15	160	182	109
1930	129	360	20	205	104	48
1931	171	534	24	238	226	89
1932	225	792	21	393	*241	*163
1933	158	518	7	290	*129	*194
1934	168	433	12	210	*151	*105
1935	129	361	5	201	*218	*153
1936	141	273	15	147	*94	*66
1937	173	300	16	159	*174	*167
1938	148	272	12	176	*139	*108
1939	112	373	9	266	*72	*75
1940	150	358	13	210	*146	*134
1941	136	269	2	204	*120	*122
1942	58	179	8	148	*31	*36
1943	118	193	8	148	*74	*62
1944	135	203	12	156	*71	*60
1945	136	174	13	129	66	50
1946	123	236	22	85	83	72

\*Exclusive of Boston.

TABLE No. 5. — *Number of Fires in State and Loss from Same from the Year 1916 to 1946, inclusive.*

YEAR.	Total Number of Fires	State exclusive of Boston.	Boston	Total Loss.
1916	7,101	5,246	1,855	\$ 9,729,755 27
1917	7,193	5,257	1,936	11,656,411 95
1918	6,814	5,054	1,760	11,988,685 58
1919	6,888	4,970	1,918	10,080,926 41
1920	6,111	4,479	1,632	12,257,037 23
1921	7,188	5,338	1,850	15,587,906 56
1922	8,199	6,022	2,097	14,745,779 61
1923	8,666	6,422	2,244	19,022,080 04
1924	9,436	6,826	2,610	22,243,991 53
1925	9,166	6,572	2,594	18,622,675 93
1926	9,469	6,803	2,666	20,873,310 27
1927	8,681	6,175	2,506	15,201,324 87
1928	8,541	6,063	2,478	17,859,327 94
1929	8,914	6,202	2,712	16,284,559 09
1930	9,276	6,550	2,726	18,159,364 42
1931	9,555	6,652	2,903	16,777,176 37
1932	10,677	7,715	2,962	18,026,358 49
1933	9,409	6,751	2,658	11,401,639 21
1934	8,936	6,427	2,509	11,311,502 92
1935	8,901	6,396	2,505	9,805,391 65
1936	8,553	6,146	2,407	10,251,304 62
1937	8,652	6,231	2,421	9,875,501 86
1938	8,371	6,081	2,290	11,288,398 60
1939	9,645	6,797	2,848	11,592,001 39
1940	9,689	6,953	2,736	12,437,016 26
1941	10,123	7,081	3,042	30,308,482 90
1942	8,466	5,836	2,630	12,725,957 12
1943	9,372	6,537	2,835	12,420,236 82
1944	9,587	6,655	2,932	14,597,090 03
1945	8,916	6,395	2,521	15,079,999 36
1946	10,034	7,010	3,024	17,294,928 62



TABLE No. 6.—*Number of Fires classified by Causes and Property.*—Concluded.

[illegible]



